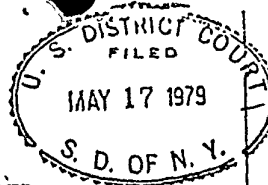


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK



-----x
UDITH CLARK, et al.,

Plaintiffs,

- against -

UNITED STATES OF AMERICA, et al.,

Defendants.
-----x

AMENDED
PROTECTIVE ORDER

78 Civ. 2244 (NEL)

Plaintiffs having moved this Court for an order to
protect the discovery process and to further the interests of
justice, and the Court having duly considered the matter, it
is ORDERED that:

1. No document identifiable with any plaintiff in
the possession, custody or control of the individual defendants
or Government agency defendants shall be destroyed or obliterated
in any manner pending a final determination of this action,
including any appeals, or upon further order of this Court:

2(a). All documents referred to in, and protected
by this order shall be placed and maintained under supervisory
control of the Court in the physical custody of any person or
agency now in possession of such records who shall be responsible
for the physical integrity of the documents. Any defendant
which has in its possession any of the documents shall be bound
by its terms.

3(a). A copy of this order shall be circulated
to each field office and legal attaches of the Federal Bureau of
Investigation ("FBI") as well as any organizational unit within
the headquarters of the FBI. Additionally, copies of the order
will be circulated to appropriate officials of the Postal Service
and Department of Justice having custody of documents identifiable
to any plaintiff.

D. Not Remove
RETAIN AS TOP SERIAL
2

SEC. 1

62-118045

NOT RECORDED

JUN 11 1979

Greenberg/Gray-5183

(b). A copy of this order shall be placed in each volume or section of all FBI main files identifiable as relating to plaintiffs.

(c). The FBI shall prepare an index of all main files referred to in 3(b) above, specifying the serial numbers of documents contained in each file and the location of each file. A copy of the index shall be furnished to ~~plaintiffs'~~ ^{for each party} attorneys and to the Court.

4. Documents protected by this order include (a) all records of any kind and description which have been garnered in connection with past and present investigations and may be garnered in connection with future investigations of any plaintiff, including but not limited to records which are identifiable to plaintiffs though contained in records pertaining to investigations of organizations or individuals with which any plaintiff may have had or may have affiliations, and (b) directives or guidelines governing the conduct of such investigations, including but not limited to the FBI Manual of Instructions and Attorney General Guidelines.

5. All documents compiled in the course of the prosecution or defense of United States v. Gray and United States v. Felt and Miller, 78-000179 (Bryant, C.J.), excluding attorneys' work products, shall be subject to the provisions of paragraphs 1 and 2 of this order. At the conclusion of the prosecutions, all documents covered by this order shall be maintained in the custody of attorneys, or their successors in control of such documents pending final determination of this action.

6. Nothing in this order shall preclude the handling, necessary marking of documents, or necessary alteration of copies of documents in the ordinary course of business or trial preparation by anyone in possession of the documents.


7. It is the intent of the Court that this order shall be broadly construed so as to prevent the destruction of any documents. In the event of any question by ^{any} defendants ^{msx} concerning the scope and coverage of this order, or any question concerning whether any particular documents come within the designated scope and coverage of this order, the documents in question will not be destroyed or obliterated in whole or part, until either: (a) they are presented to ~~The attorneys for the other parties~~ ^{plaintiffs and plaintiffs' attorneys} for examination and ~~such parties,~~ ^{plaintiffs,} by their attorneys, stipulate in writing that the documents may be destroyed or obliterated in whole or part; or (b) the Court, after a hearing duly noticed, exempts the specified documents in question from its order.

8. In addition to specific instructions concerning communication of the contents of this order contained herein, defendants and their attorneys shall communicate the contents of this order forthwith to all appropriate individuals so as to assure the effectuation and compliance with the order by all persons.

9. Within 30 days, defendants shall report to the Court all steps taken so as to assure the effectuation and compliance with this order by all persons.

Dated: New York, New York

~~April 18~~, 1979
May 16


United States District Judge

DEPARTMENT OF THE AIR FORCE
Headquarters Air Force Office of Special Investigations
Washington, DC 20314



REPLY TO
ATTN OF: XPX (Major Goforth, 693-6620)

19 JUN 1978

SUBJECT: U.S. V.L. Patrick Gray III, et al Defense Discovery/Classified
Material (FBI Letter, 8 Jun 78)

TO: Federal Bureau of Investigation (Mr Paul V. Daly)

1. The information provided by AFOSI is no longer classified and we interpose no objection to its release to the defense counsel. AFOSI may be identified as the source of the information.

2. Please direct any questions to the AFOSI project officer Major W.C. Goforth, (693-6620).

Thomas M. Slawson
THOMAS M. SLAWSON, Lt Col, USAF
Deputy Director of Plans, Programs,
and Resources

1 Atch
FBI Ltr, 8 Jun 78 w/enclosure

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

62-118045

When Atch Nr 1 is (are) withdrawn
or not attached, the classification of
~~Confidential~~ on this correspondence
will be cancelled in accordance with AFR 285-1

Greenberg/Gray-5186

UNITED STATES GOVERNMENT

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Memorandum

TO : Department of the Air Force

DATE: 6-8-78

FROM : Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEH

BY LIAISON

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

You may make and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

~~CONFIDENTIAL~~
Material Attached

Greenberg/Gray-5187



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Department of the Air Force

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: 6/8/78

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: FOIA
Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force X Other _____
OSI

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
	100-176013	40 & 39	2/9/73
	sect 1	(non-symbol	
	(NY file)	source page of	
		Serial 40 &	
		page 2 of Serial 39	

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs



~~SECRET~~ ~~CONFIDENTIAL~~ ~~UNCLASSIFIED~~
MATERIAL ATTACHED

Greenberg/Gray-5189

NY 100-176013

Non-Symbol Informant Page

The fourth confidential source is the records of
OSI, United States Air Force, Park Air Force Base, Philippine
Islands.

CAUTION: DO NOT DISSEMINATE TO RESIDENT AGENCIES, DETACH.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-01-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5190

~~CONFIDENTIAL~~

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[REDACTED]

SDS was founded during June, 1962, at Port Huron, Michigan, and in the 1960's functioned as the leading New Left campus-based student organization in the United States. From a stance of "participatory democracy," the SDS moved to a radical-revolutionary position. It maintained a national office at 1600 West Madison Street, Chicago, Illinois, until February, 1970. Internal factionalism during 1969 produced three main factions: Weatherman, Revolutionary Youth Movement (RYM), and Worker Student Alliance (WSA). The Weatherman and RYM no longer consider themselves associated with the SDS. The WSA faction continues to use the name SDS.

T-12-140
On December 11, 1972, a second confidential source, who has furnished reliable information in the past, advised that [REDACTED] and [REDACTED] had "somewhat of a falling out" and see each other only occasionally.

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On April 15, 1972, a third confidential source, who has furnished reliable information in the past, advised that [REDACTED] began to spend a series of evenings at McGuire Air Force Base, Fort Dix, New Jersey, accompanied frequently by [REDACTED] the purpose of which was to oppose United States escalation of the Vietnam War and to urge GI resistance at Fort Dix and at McGuire Base. This source further advised that during June, 1972, this "Dix-McGuire Project" became defunct and no longer operates. (U)

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referred
On October 16, 1972, a fourth confidential source, who has furnished reliable information in the past, advised that [REDACTED] was arrested by the Philippine authorities in connection with a raid on the National Lawyers Guild office, Clangapo, Philippines, under current Martial Law. President Marcos ordered [REDACTED] released on October 24, 1972.

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b7C

~~CONFIDENTIAL~~

#17

ACTING DIRECTOR, FBI

2/9/73

SAC, NEW YORK (100-176013)(8)

[REDACTED]
SM - ~~SECRET~~
(OO:NY)

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Enclosed for the Bureau are six copies of a LHM
suitable for dissemination.

The confidential sources referred to in the attached
LHM are as follows:

First source
Second source
Third source

b2
b7D

The Special Agents who observed the subject in NYC
were SA [REDACTED]

b6
b7C

The attached LHM is being classified "Confidential"
to further protect the identity of the sources utilized in the
preparation of the LHM; the unauthorized disclosure of such
information would possibly lead to their identification and
damage the security interest of the US.

In view of the recent guidelines set forth for
recommendations concerning ADEX, the NYO is not recommending
[REDACTED] for inclusion into ADEX.

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NY is preparing information for inclusion of [REDACTED]
into the Weatherman Album, which will be submitted to the
Bureau for approval.

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- 2 - Bureau (Encls. 6)(RM)
1 - Newark (Encl. 1)(RM)
1 - New York (100-171161)
① - New York

JLV:eps
(5)

CHIEF CLERK

SEARCHED INDEXED
SERIALIZED FILED
MAR 7 1973
NEW YORK

ORIGINAL
FILED
NY
10/11/73

FILE STRIPPED
DATE 3/7/73
BY [signature] ON 2/14/73

NY 100-176013

Non-Symbol Informant Page

The fourth confidential source is the records of
OSI, United States Air Force, Clark Air Force Base, Philippine
Islands.

referred to 3rd Party

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 04-01-2009 BY 65179 dmh/baw/sbs

CAUTION: DO NOT DISSEMINATE TO RESIDENT AGENCIES, DETACH.

Greenberg/Gray-5193

~~CONFIDENTIAL~~

New York, New York
February 9, 1973

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-27-2009

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T-9

On April 14, 1972, a first confidential source, who has furnished reliable information in the past, advised that [redacted] resides at [redacted] apartment [redacted] New York City, New York, and is the paramour of [redacted]

b6
b7C

[redacted] is publicly known as a Weatherman supporter and is the sister of [redacted] leader of the Weatherman underground.

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Weatherman, formerly a faction of Students for a Democratic Society (SDS) controlled the SDS National Office from June, 1969, until its closing in February, 1970. Weatherman then entered an underground status and adopted a tactic of "strategic sabotage," with police and military installations designated as primary targets.

~~CONFIDENTIAL~~

Retained 1/18/88
5/18/88

Classified By [redacted]
Exempt From General Declassification Schedule of Executive Order 11652
Exemption Category 2
Automatically Declassified On INDEFINITE

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This document contains neither recommendations nor conclusions of the Federal Bureau of Investigation (FBI). It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

Serialized
Indexed
Filed

100-176613 39

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On December 11, 1972, a second confidential source, who has furnished reliable information in the past, advised that [] and [] had "somewhat of a falling out" and see each other only occasionally.

On April 15, 1972, a third confidential source, who has furnished reliable information in the past, advised that [redacted] began to spend a series of evenings at McGuire Air Force Base, Fort Dix, New Jersey, accompanied frequently by [redacted], the purpose of which was to oppose United States escalation of the Vietnam War and to urge GI resistance at Fort Dix and at McGuire Base. This source further advised that during June, 1972, this "Dix-McGuire Project" became defunct and no longer operates. (S)

[illegible]

~~CONFIDENTIAL~~

[redacted] b6
b7C

National Lawyers Guild (NLG) is a communist front organization of lawyers and law students dedicated to Communist Party, USA, and New Left ideals for radical change of the social, economic and judicial systems in the United States.

[redacted] has been observed on several occasions in New York City during December, 1972, by Special Agents of the Federal Bureau of Investigation (FBI).

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All of the above sources, together with observations of the Special Agents of the FBI have obtained the following description of [redacted]

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Name
Address

[redacted]
Apartment [redacted]
New York City

Telephone

Sex

Race

Date of Birth

Place of Birth

Height

Weight

Eyes

Hair

Passport

Parents

[redacted]
Male
Caucasian

[redacted]
Five feet nine inches
150 pounds

Brown

Black (bushy and full bearded)

Issued September 19, 1972

b6
b7C

Brother

[redacted]
New York

Long Island,

[redacted]
Sherman Oaks, California

~~CONFIDENTIAL~~

Greenberg/Gray-5196

~~CONFIDENTIAL~~

[REDACTED]
b6
b7C

Employment

City of New York,
Human Resources Administration
(part-time)

Vehicle Used

1966 black Volvo,
sedan,
New York license 6Y3686

Registered to: [REDACTED]

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b7C

~~CONFIDENTIAL~~

Greenberg/Gray-5197

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

TO : John J. McDermott
Deputy Associate Director, FBI

FROM : *mel* Mary C. Lawton
Deputy Assistant Attorney General
Office of Legal Counsel

DATE: Apr: 12

5/28 SUBJECT: FBI Participation in Discovery in the Kearney and the Gray, Felt and Miller cases.

Assoc. Dir.	_____
Dep. AD Adm.	_____
Dep. AD Inv.	_____
Asst. Dir.:	
Adm. Servs.	_____
Crim. Inv.	_____
Ident.	_____
Intell.	_____
Laboratory	_____
Legal Coun.	_____
Plan. & Insp.	_____
Rec. Mgnt.	_____
Tech. Servs.	_____
Training	_____
Public Affs. Off.	_____
Telephone Rm.	_____
Director's Sec'y	_____

FBI/DOJ

This memorandum will confirm our discussion of April 11, 1978 concerning the processing of FBI files and other materials in response to the discovery order in the Kearney case and in anticipation of discovery in the Gray, Felt and Miller cases.

see memo In the interest of preserving a record of the work already done by the FBI in the Kearney discovery, the FBI should preserve a listing of materials which have already been reviewed and processed, as well as noting materials which have yet to be processed so that this work will not have to be duplicated. The FBI should also prepare an inventory of materials which it collected from sources other than official files, noting both the general content and the location where the material was found or the custodian of the material. "Leads" to additional material, not yet found and reviewed, should also be preserved so that further efforts to locate this material can be made if necessary.

I understand that the Bureau has already made arrangements to retrieve material previously furnished to Kearney defense counsel and that the Department will be notified when this is completed.

In anticipation of future discovery requests in connection with the Gray, Felt and Miller cases, the Bureau will keep a small staff together for the purpose of processing those files as to which discovery is a virtual certainty--

REC-110

DE-111

14 AUG 31 1978

8 4 SEP 14 1978

Greenberg/Gray-5198

4-PUD

namely, the files relating to individuals against whom actions were taken that form the basis of the indictment. To the extent these files were not already processed, processing will continue using the same basis of redaction contained in the Kearney discovery order.

We also agreed that the moratorium on destruction of field office security files should be continued until such time as we determine what the scope of discovery will be in the Gray, Felt and Miller cases. The Department will attempt, however, to limit the field office files involved in discovery in those cases so that normal destruction can resume in most of the Offices. ||

We will do our best to see that the discovery in these cases is more limited than that ordered in the Kearney case.

cc: Phil Jordan
Bob Keuch
Barnet Skolnik

HW

UNITED STATES GOVERNMENT

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

TO : D. Michael Griffen
Investigative Coordinator

DATE: April 19, 1978

FROM : Barnet D. Skolnik *BDS/HM*
Special Counsel
Department of Justice

SUBJECT: United States v. L. Patrick Gray III, et al

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In connection with preparation for the trial in United States v. Gray, et al it will be necessary for this office to have in its possession the originals of any documents that may be used at trial. The bulk of these documents will be the dissemination documents from various bag jobs. This office should be provided with all originals of each document, i.e. headquarters copies, field office copies, and copies designated for related files. For example, if a document is requested from the [] file you should also provide all copies of that document that were designated for another file; such as [] or Weathfug. You need not provide original copies which were sent to field offices other than New York.

Any document relating to Weatherman bag jobs should not be classified. Should any of the requested documents warrant classification for some reason, other than reference to a bag job, the original should not be classified at this time. A copy of any such document should be provided to this office with an appropriate indication as to which portions of the document warrant classification. *CJP*

Finally, in order to facilitate review, by both Department attorney's and defense counsel, of pertinent New York files it is requested that certain files be brought to FBI headquarters as soon as feasible.* For each requested file it is only necessary at this time to bring to Washington the volumes of that file covering the period from the beginning of the investigation (serial 1) to January 1, 1974. Any volumes dealing with the period after January 1, 1974 up to January 1, 1977 should be brought to Washington only if doing so will not impede the current work of the New York office. The files that should be brought to Washington are:

*/Any bulky exhibits, 1A envelopes, etc. should also be brought to Washington.

cc: Paul Daly

REC-110

62 - 118045 - 2

Greenberg/Gray-5200

14 AUG 31 1978



8 4 SEP 14 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

4-PD0

Weathfug



NY file 176-403A
 NY file 176-86
 NY file 100-171161
 NY file 100-172368
 NY file 100-166899
 NY file 176-96
 NY file 176-100
 NY file 100-167400
 NY file 100-176013
 NY file 176-97
 NY file 100-178220

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The original Bureau documents that should be provided to this office are the indicated serials from the following files:

- 1) Weathfug: New York file 176-403A-3016, 3359, 3396, 3473, 3506, 3630, 3643, 3644, 3648, 3671, 3678, 3691, 3695.

Bureau file 176-1594-3118, 3130, 3139,
 3146, 3166, 3344, 3353, 3357, 3399c, 3405,
 3455

- 2) [redacted]: New York file 176-86-538, 554, 606, 609, 612A, 614, 624, 629 and the serial corresponding Bufile 176-1637-1025.

b6
b7C

Bureau file 176-1637-945, 1012, 1014,
 1016, 1023, 1025, 1044, 1076, and the
 serial corresponding to NY file
 176-86-554

- 3) [redacted]: New York file 100-171161-457, 458, 463, 470, 495, 499, 506, 508, 516, 531, 535, 538, 550, 552, 555, 559, 568, 569, 575

b6
b7C

Bureau file 100-454261-non recorded
 serials corresponding to NY file
 100-171161-457, 458, 463, 531, 535,
 538, 550, 552 and serial corresponding
 to Bureau file 176-1594-3146

- 4) [redacted]: New York file 100-172368-23, 24, 29, 30 and 31

b6
b7C

Bureau file 100-465959-10, 11, and 13

- 3 -
- 5) [redacted]: New York file 100-166899-17, 18, and 21 b6
b7C
- 6) [redacted]: New York file 176-96-384, b6
b7C
Bureau file 176-2004-258.
- 7) [redacted]: New York file 176-100-80 b6
b7C
√ Bureau file 176-1636-106
- 8) [redacted]: New York file 100-167400-358 b6
b7C
- 9) [redacted]: New York file 100-176013-40, 41 b6
b7C
- 10) [redacted]: New York file 176-97-203, 205, 215, b6
b7C
216, 220.
Bureau file ⁸⁸~~176~~-49004-142, 162, 166, 170, 177.
- 11) [redacted]: Bureau file ²88-56609-64, ⁴90 and ⁴191 b6
b7C

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.:
 Adm. Servs. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TO : Mr. Bassett

DATE: 4/21/78

FROM : P. V. Daly

SUBJECT: UNITED STATES OF AMERICA

L. PATRICK GRAY, III,
 W. MARK FELT and
 EDWARD S. MILLER

In connection with the above-described case, Messrs. Gray, Felt and Miller were arraigned on 4/20/78, at which time the Judge directed the Government to furnish material in compliance with Rule 16 of the Federal Rules of Criminal Procedure.

Frank Martin of the Criminal Division of the Department telephonically contacted the writer and advised him of this and requested that the Bureau locate documents needed to comply with the Judge's order. He stated he would furnish such a list on the morning of 4/21/78, and that the documents must be furnished the Defense by 4/25/78. He requested that no classification be placed on the documents, if indeed the documents warranted such classification. He was informed not only would classification have to be done on these materials, but that they would also be reviewed for any excisions necessary to protect sources, etc. He indicated that Barnett Skolnick, the Prosecutor in this matter, and he had discussed this matter and both were in agreement that the Bureau should not classify these materials. He was again advised this was not possible and that classification would have to be done as well as review for excision.

The aforementioned conversation was brought to the attention of Ms. Mary Lawton, Deputy Assistant Attorney General, Office of Legal Counsel. She stated the Bureau's decision was correct and that she would contact Acting Deputy Attorney General Benjamin Civiletti concerning this matter.

It was subsequently learned from conversation with Jim Savage and Paul Boucher of the Department, that they had contacted SA D. Michael Griffin, who had coordinated the

- 1 - Mr. Colwell
- 1 - Mr. Bassett
- 1 - Mr. Daly

PVD:baw (4)

CONTINUED - OVER



4 SEP 14 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

Greenberg/Gray 5203

14 AUG 31 1978

FBI/DOJ

Memorandum to Mr. Bassett
Re: United States of America

V.

L. Patrick Gray, III,
W. Mark Felt and
Edward S. Miller

Bureau's assistance in the investigation of this matter, and arranged to have SA Griffin furnish the material responding to the court order. It would appear that because of the response by the writer as to the necessity of classification and review for excision, the Department decided to utilize the services of SA Griffin since the policy during the investigation was not to review the documents for classification or excision since they were only to be furnished the Department. In this instance, of course, they are to be furnished the Defense Counsel and the Defendants for use and will be used in the forthcoming trial.

It is observed that the possibility exists that classified materials may have been used in establishing the overt acts supporting the indictment and the Department, because they have never had the documents reviewed for classification or source problems, remains unaware of this.

A potential problem also exists if the Department plans to furnish the Defense and use in the prosecution original Bureau documents already in their possession, which were furnished to them by Mr. Long's group. For instance, the Miller to Felt memoranda will presumably be used. Although these memoranda are undoubtedly unclassifiable, they should be reviewed by the Bureau to make that determination. Although this requirement of Bureau review of the Miller to Felt memoranda is arguably a technicality, we have absolutely no way of knowing what other documents the Department may be planning to furnish the Defense which involve serious classification problems of considerably more than a technical nature.

RECOMMENDATION:

None. For information.

1/2

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bassett *HB*

DATE: 4/21/78

FROM : P. V. Daly *PV*

SUBJECT: UNITED STATES OF AMERICA

4
nt
L. PATRICK ^{V.} GRAY, III,
W. MARK FELT and
EDWARD S. MILLER

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

Attached as an enclosure in an envelope is the list of ten documents which the Prosecution intends to furnish to the Defense in compliance with Rule 16 of the Federal Rules of Criminal Procedure. The list was received by SA [redacted] on 4/21/78 from Jim Savage of Barnett Skolnik's staff. It describes the documents by file subject and Bufile with serial number, with the exception of the last document, for which a Xerox copy of the document taken from the files of the New York Office was furnished. *4-1*
7-1
W

Set forth below, numbered 1 through 10, are the documents requested: *off*

1) New York letter to the Acting Director, 2/15/73, Attention: Document Section, on the WEATHFUG file (176-1594-3353). The letter submits typewritten samples from three typewriters in the apartment of [redacted] Avenue, New York, which were furnished by NY 13270-S on 2/14/73. (Overt Acts (OA) 23-26). *REC-110*
62-118045-4

2) New York airtel to the Acting Director, 12/15/72, under the WEATHFUG and [redacted] captions (176-1637-945), which encloses photographs of handwriting and typewriting samples from the apartment of [redacted]

Brooklyn. The information was furnished by NY 12951-S on 12/11/72. (OA 6-9). The document was classified "Confidential XGDS-2" after review 2/27/78 during the Kearney defense discovery special. *AUG 31 1978*

3) New York nitel to the Acting Director, 2/26/73, under the [redacted] captions (176-1637-1023), sets forth a Passport Office lead based upon information from NY 12951-S at [redacted] Brooklyn, on 2/24/73. (OA 21-22). *Daly 888*

ENCLOSURE

1 - Mr. Bassett
1 - Mr. Daly

CONTINUED - OVER

Memorandum to Mr. Bassett
Re: United States of America

v.

L. Patrick Gray, III,
W. Mark Felt and
Edward S. Miller

4) New York airtel 2/13/73 to the Acting Director, Attention: document Section, under the [] caption (176-1637-1014), forwards photograph for handwriting comparison. The enclosure was obtained 2/13/73 from "a confidential source" not further described. (OA 19-20). b6 b7C

5) New York airtel to the Acting Director, Attention: Documents, 2/14/73, under the [] captions (176-1637-1012), encloses eleven photographs. Enclosures were obtained 2/13/73 from NY 12951-S at [] Brooklyn. (OA 19-20). b6 b7C

6) New York airtel 5/17/73 to the Acting Director, Attention Cryptanalysis - Translation, under the [] caption (176-2004-258), forwards six photographs of Yiddish writing for translation. The airtel reports contact with NY 13808-S ("a sensitive source with knowledge of [] []") with no date given. The document was classified "Confidential XGDS-2" following review 10/18/77 by DCRU, FOIPA Branch. It is noted the file was copied 5/25/77 and 6/20/77 in connection with FOIPA requests. (Probably OA 27-30). b6 b7C

7) Newark teletype 2/6/73 to the Acting Director, under the [] caption (88-56609-90), reports information received 2/5/73 from CS NK 5009-S concerning a letter, reported elsewhere to have been forwarded to [] and [] Union, New Jersey. (OA 17-18). b6 b7C

8) Newark teletype 1/12/73 to the Acting Director and several field offices under the [] caption (88-56609-64), reports information received from a "highly confidential source" 8/11/72 and 10/31/72. This source was not associated with any particular address but may involve []. The teletype also reports information received 1/10/73, CS NK 5009-S, who reported information recently in the possession of []. (OA 14-16). b6 b7C

9) Newark airtel to the Acting Director, Attention: Laboratory, 5/25/73, under the [] caption (88-56609-191), encloses three photographs of an envelope and card requesting handwriting comparison with known fugitives. b6 b7C

Memorandum to Mr. Bassett
Re: United States of America

V.
L. Patrick Gray, III,
W. Mark Felt and
Edward S. Miller

The photographs were received from NK 5009-S, no date given, described as being in a position to furnish information on Flatley's parents [redacted]. The original photographs in the enclosure envelopes are marked as having been received in evidence as Government exhibits 9-A through 9-C on 3/10/78. (Probably OA 31-32). b6 b7C

10) New York airtel to the Acting Director, 1/11/73, under the WEATHFUG and [redacted] captions (100-465959-8), enclosing five photographs of handwriting and type-writing samples for the Document Section. The documents were furnished by NY 12974-S on 12/20/72, and the source is described as a highly placed sensitive source at [redacted] New York, the residence of [redacted], who sublet her apartment to her associate, [redacted] from December, 1971, through July, 1972. (OA 10-13). b6 b7C

It, therefore, appears that one document received at FBIHQ for each surreptitious entry set forth in the list of overt acts attached to the indictment of 4/10/78, is included. The overt acts list surreptitious entries at five locations:

[redacted]

b6
b7C

New York
12/20/72 (OA 10-13)

[redacted]

b6
b7C

Union, New Jersey
1/10/73 (OA 14-16)
2/5/73 (OA 17-18)
5/17/73 (OA 31-32)

[redacted]

b6
b7C

New York
2/14/73 (OA 23-26)

[redacted]

b6
b7C

New York
4/16/73 (OA 27-30)

[redacted]
[redacted]

b6
b7C

Brooklyn
12/11/72 (OA 6-9)
2/13/73 (OA 19-20)
2/24/73 (OA 21-22)

[Redacted]

b6
b7C

Bureau file

88-56609-64 o/K

90

191

[Redacted]

b6
b7C

Bureau file on ATTACHED

AIRTEL

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 03-27-2009 BY 65179 dmh/baw/sde

Greenberg/Gray-5

ORIGINAL Bureau documents

Weather

Bureau file

176 - 1594 - 3353 - OK

b6
b7C

Bureau file

176 - 1637 - 945 OK

1012

1014

1023

b6
b7C

Bureau file

176 - 2004 - 258

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 03-27-2009 BY 65179 dmh/baw/shs

Greenberg/Gray-5209

1-160-004

FBI

Date: 1/11/73

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL _____
(Priority)

TO: ACTING DIRECTOR, FBI

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

FROM: SAC, NEW YORK

SUBJECT: WEATHERFUG
(OO:CG)
Bufile 176-1594
NYfile 176-403A[REDACTED]
SM-REACT
(OO:NY)
Bufile 100-465959
NYfile 100-172368b6
b7C

Enclosed for the Bureau, Chicago and San Francisco are five photographs which comprise handwriting and/or typewriting samples obtained by the New York Office.

For the information of the Bureau and receiving Offices, the New York Office developed NY 12974-S, a highly placed sensitive source, at [REDACTED]

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[REDACTED] New York City, [REDACTED]. This is the residence of [REDACTED] a New Left attorney.

5-Bureau (Encls. 5) (RM)
(1-FBI Laboratory, Document. Section)
(2-100-465959)

2-Chicago (Encls. 5) (RM)
4-San Francisco (Encls. 5) (RM)
1-New York (100-172368)
1-New York (100-171161)
1-New York

JLV:dab
(15)

Greenberg/Gray-5210

ENCLOSURE

M. Per

NY 176-403A'

By way of background, [] first came to the attention of the New York Office when she apparently lost an item of identification, which was subsequently found in the Wilkerson Town House explosion in Greenwich Village, New York during March, 1970.

[] subsequently sublet her apartment from December, 1971 through July, 1972 to []

b6
b7C

[] has now returned to her apartment at [] Street, New York City, and is now employed as a New Left attorney for the Legal Aid Society, 100 Centre Street, New York City.

On 12/20/72, NY 12974-S was contacted and advised that [] currently has a roommate, one [] a white female, employed at the National Lawyers Guild (NLG), 23 Cornelia Street, New York City.

b6
b7C

The source furnished the enclosures as items of typewriting and/or handwriting, a part of which is from one [] (LNU) and a part from one [] National Lawyers Guild, San Francisco, California. The source further advised that the NLG is maintaining records of all FBI contacts that come to their attention.

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b7C

NY 12974-S advised that [] was in recent contact with the following individuals from the San Francisco area:

b6
b7C

[]
Berkeley, California

[]
Berkeley, California

b6
b7C

NY 176-403A

[redacted]
Berkeley, California

b6
b7C

[redacted]
Oakland, California

The following background concerning [redacted]
was furnished by the source:

b6
b7C

Sex	Female
Race	Caucasian
Nationality	American
Date of Birth	[redacted]
Place of Birth	[redacted]
Height	5'5"
Weight	120 lbs.
Hair	Red
Eyes	Brown
Characteristics	Wears glasses and very modern and colorful clothing
Passport Number	[redacted] (to expire 7/24/74).

b6
b7C

The FBI Laboratory, Document Section is requested to examine the handwriting and typewriting in the five enclosed photos and, if feasible, make comparisons with all submissions under CAPCOM, PENCOM and WEATHFUG.

San Francisco identify the aforementioned individuals and conduct any additional investigation resulting there from deemed logical.

Information copies are being furnished to the Chicago Division as Office of Origin in WEATHFUG.

NY 176-403A

Receiving Offices, when reporting results of this communication, are requested to so paraphrase it, to protect the identity of the source referred to herein.

ARMED AND DANGEROUS - EXTREMIST

Benjamin R. Civiletti
Acting Deputy Attorney General

4/26/78

John J. McDermott
Deputy Associate Director
Federal Bureau of Investigation
UNITED STATES V. L. PATRICK GRAY, III,
W. MARK FELT, AND EDWARD S. HILLER

FEDERAL GOVERNMENT

This will confirm a conference today between
Mr. James Savage of Mr. Skolnik's office and SA Joseph L.
Tierney of our special office for compliance with discovery
in the prosecution of captioned case.

It is our understanding that the originals of
the following documents with four copies are desired by
Mr. Skolnik's office by close of business Monday, 4/24/78,
for use in compliance with discovery ordered by the Court
under Rule 16 of the Federal Rules of Criminal Procedures
on Tuesday morning, 4/25/78.

A. The ten documents as listed by Mr. Savage
for SA [redacted] on Friday, 4/21/78.

b6
b7C

1. 176-1594-3353
2. 176-1637-945
3. 176-1637-1012
4. 176-1637-1014
5. 176-1637-1023
6. 176-2004-258
7. 88-56609-64
8. 88-56609-90
9. 88-56609-191
10. The Bureau file copy of New York
Serial 176-403A-3473.

REC-110

62-118045-5

14 AUG 31 1978

B. All memoranda concerning surreptitious
entries relating to the Weathermen from SAC Folder
Number 25.

C. 1A envelopes and bulky exhibits as set
forth in Paragraph A, Sub-paragraphs 1 through 3;
Paragraph B, Sub-paragraphs 1 through 9; and Paragraph
C, Sub-paragraphs 4, 7, 8, 9, 14, 15, 16, and 18 in the

- 1 - Mr. Bassett
- 1 - Mr. Daly

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

(SEE NOTE - PAGE 3)

Greenberg/Gray-5214

FBI/DOJ

3 4 SEP 1978

Acting Deputy Attorney General

letter from William L. Gardner to Joseph Schulte, dated 10/26/76 and captioned "Surreptitious Entry Investigations," a copy of which was furnished to us by Mr. Savage with notations of the exact material desired as set forth herein.

With regard to the materials listed above for use in discovery, Mr. Skolnik's office has been advised all original documents are available and will be delivered as requested with the exception of approximately five of the 1A envelopes listed under Paragraph C above, which will be obtained and furnished as promptly as possible. These materials have been returned to Field Office files.

We will furnish Mr. Skolnik with the original document and four machine-made copies of each. All original documents will be reviewed for compliance with current classification guidelines. Redactions will be made from the copies which are to be furnished to the defense on the basis of informant and source protection, compromise of ongoing investigations, and the privacy of unrelated third parties. No redactions will be made on the ground of classification. Unredacted copies should not be furnished to the defense without further consultation with us.

It is our further understanding that additional materials are desired for the use of the Department in preparation of this case for trial. The additional materials to be compiled and furnished are set forth in a memorandum from Mr. Skolnik to D. Michael Griffin, dated 4/19/78 and captioned "United States v. L. Patrick Gray, III, et al." As discussed, this request involves moving the entire New York files pertaining to the WEATHERFUG investigation and for ten individual files from New York to FBI Headquarters. This cannot be done within the next week, but will be accomplished as quickly as possible. In the interest of efficiency, therefore, we will not furnish the original documents from New York files numbered 1 through 11 on Pages 2 and 3 of Mr. Skolnik's memorandum until the original file is received from New York. We will attempt to furnish the original documents from Headquarters files set forth in those numbered paragraphs by close of business Friday, 4/22/78.

Acting Deputy Attorney General

If the above is not in accord with Mr. Skolnik's understanding or desires, please contact SA Paul V. Daly or SA Joseph L. Tierney at 324-3542 as soon as possible.

- 1 - Barnett D. Skolnik
Special Counsel to the
Assistant Attorney General
Criminal Division
- 1 - Mary C. Lawton
Deputy Assistant Attorney General
Office of Legal Counsel
- 1 - Robert Rouch
Deputy Assistant Attorney General
Criminal Division

NOTE: The above intended to confirm to the Office of Barnett D. Skolnik the classification review, the redaction policy with regard to materials going to the defense, and the exact list of materials desired as well as the schedule needed. Clarification of the materials needed is necessary to avoid confusion and conflict which has resulted from the Department furnishing annotated copies of two existing documents to SA D. Michael Griffin on 4/20/78 and a handwritten list of documents desired to SA [redacted] on 4/21/78. The Department indicated to SA Griffin on 4/20/78 that a substantial portion of the documents listed in Mr. Skolnik's memorandum of 4/19/78 were needed in compliance with Rule 16 of discovery by close of business Monday, 4/24/78. After conferring with Mr. Savage on the morning of 4/24/78, it has been made clear that only the ten documents on the list furnished to SA [redacted] on 4/21/78 are needed.

b6
b7C

UNITED STATES GOVERNMENT

Memorandum

Copy for FBI & TS Control

RETAIN WITH RECEIPT

SHOWS REASON FOR DISSEMINATION
TO DOJ

DATE: April 24, 1978

ALL FBI INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 03-27-2009 BY 5179 dmh/baw/sbs

FEDERAL GOVERNMENT

TO : Paul Daly, Special Agent
Federal Bureau of Investigation

FROM : Brock Willcox Justice Dept.
FBI Task Force

SUBJECT: United States v. Gray et. al.

As supplementing the April 19, 1978 memo, captioned as above, from Barnet Skolnik, the originals of the following documents will be required for trial, and should be furnished to the prosecution office as soon as possible. Where possible, the documents which are not so marked on their face have been reproduced, and copies are attached. The location of the originals should be ascertainable from the document.

1. Handwritten note from L.P. Gray, dated 5/30 10:53 A.M., beginning "What major intelligence programs, if any, have been abolished?" (copy enclosed)

2. Branigan to Miller memo dated 5/31/72. (File number obscured. It is a 6-page memo; copy of top page is enclosed)

3. Shackelford to Miller memo dated 6/8/72, file/serial 156-437147-3634(?) (copy of top page enclosed)

4. Handwritten note from L.P. Gray, dated 6/15 12:00 noon P.M., beginning "Let's make this a productive meeting" (copy enclosed - document is probably attached to Shackelford to Miller memo dated 6/8/72 re SDS (Weatherman) Internal Security - Revolutionary Activities).

5. Shackelford to Miller memo dated 6/23/72 file/serial 134-23721-1.

6. L.P. Gray to Felt memo dated 6/28/72 file/serial 134-23721-5.

7. Miller to Felt memo dated 6/30/72 file/serial 134-23721-4.

8. Cleveland to Felt memo dated 7/3/72. (Serial number obscured; copy of top page enclosed).

Top Sec. dated
prior to 7-1-77 - form
detached.

REC-137

9 AUG 4 1978

DOC CLASS. (REDACTED)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Greenberg/Gray-5217



5010-110

OCT 19 1978 BDC

INCONS SEP 19 1978

outcons 10/19/78 BDG

62-117166-200130

RECEIVED

Greenberg/Gray-5218

9. L.P. Gray handwritten notes dated 7/17/72, file/serial 134-23721-627.

10. Typed copy of L.P. Gray's notes, in form of memo to Felt. (No file number-copy of top page enclosed)

11. L.P. Gray handwritten note dated 7/17/72, file/serial 134-23721-5.

12. Shackelford to Miller memo dated 7/21/72 (no file number - copy of top page enclosed. Memo refers to an "attached teletype." The referenced teletype is hereby requested, and should be provided also).

13. Teletype 9/7/72, 105-183400-1296.

14. Miller to Felt memo, dated 9/7/72, file/serial 105-183400-1435.

15. Shackelford to Miller memo dated 9/13/72 file/serial 1-17-2663 (Memo has attached a teletype and an In-Service Agenda. Both attachments are also requested).

16. Miller to Felt memo 9/21/72 file/serial 105-183400-1531.

17. T.J. Smith to Miller memo dated 8/4/72, file/serial 66-8160-3433.

Greenberg/Gray-5219

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

TO : Mr. McDermott

DATE: 4/27/78

FROM : H. N. Bassett

SUBJECT: UNITED STATES v. L. PATRICK GRAY, III, ET AL
DOCUMENT CLASSIFICATION MATTER

PURPOSE: To advise of steps being taken in an attempt to resolve anticipated questions involving classification of documents relating to the WEATHFUG investigation required for the prosecution of captioned case.

SYNOPSIS: The Departmental Review Committee (DRC), which exercises the Attorney General's approval authority in classification matters under Executive Order 11652, has in the past upheld classification to protect live sources and some investigative techniques in domestic security cases. The DRC has never decided a Weatherman classification appeal where a surreptitious entry was directly on point. Many documents now being requested by Barnet D. Skolnik, who is responsible for supervising the prosecution of captioned case, would be classified under present policy. Mr. Skolnik has requested the FBI not mark the originals of these documents until the classification matter has been finally adjudicated. The FBI has refused to deliver documents under such circumstances, and the Department has agreed with this position. It is in our interest to resolve these questions promptly in order to avoid what may be ultimately decided to have been overclassification and the resultant declassification actions involved. The Department has agreed to consider the issues at the next regularly scheduled meeting of the DRC Tuesday, May 2, 1978.

RECOMMENDATION: None, for information.

APPROVED:

Director _____
Assoc. Dir. _____
Dep. AD Inv. _____
Dep. AD Adm. _____
Adm. Serv. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____

14 AUG 31 1978

Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Spec. Inv. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____

- 1 - Mr. Bassett
1 - Mr. Ryan
1 - Mr. Ross (Attention: _____)
1 - Mr. Moore (Attention: _____)
1 - Mr. Daly

(DETAILS - OVER)

JLT:sjb
(6)

SEP 14 1978

Memorandum to Mr. McDermott
Re: United States v. L. Patrick Gray, III, Et Al
Document Classification Matter

DETAILS: The DRC consists of five members, one of whom is a representative of the FBI. It exercises the Attorney General's approval authority over classification matters under Executive Order 11652, or evaluates issues and makes recommendations upon which the Attorney General personally acts.

In the past, the DRC has upheld classification of some materials in domestic intelligence cases, which were legitimately opened to protect the national security. Classification of documents to protect live informants and sources and some investigative techniques including mail covers, technical surveillances, and microphone surveillances, have all been upheld. There has been no decision of the DRC which directly approves classification in order to protect surreptitious entry as an investigative technique in a Weatherman case.

Barnet D. Skolnik is responsible to Acting Deputy Attorney General Civiletti for supervising the prosecution of Messrs. Gray, Felt, and Miller. In preparing for trial, he is requesting delivery of original FBI documents for possible use in Court. Many of these documents are now classifiable under the present policy of the FBI in those areas in which the DRC has approved classification, or in which a successful argument upholding their classification before the DRC can be envisioned.

Mr. Skolnik's Office requested the FBI to withhold stamping the classification of individual documents on the originals of those documents before delivering them to the Department. He desired markings be withheld until the classification issue for each document has been finally adjudicated, presumably by the DRC, or perhaps by the Attorney General himself acting independently. The FBI refused to deliver classifiable documents without proper markings. Deputy Assistant Attorney General Mary C. Lawton advised Mr. Skolnik the FBI's position was proper, and he now concurs.

The prompt resolution of the classification issues is in the best interest of the FBI and all parties involved. To delay resolution of the issues risks a last minute decision by the DRC that FBI documents needed in the prosecution of the case have been overclassified and must be declassified. This would not only aggravate Mr. Skolnik's task unduly and thereby

Memorandum to Mr. McDermott
Re: United States v. L. Patrick Gray, III, Et Al
Document Classification Matter

potentially antagonize him, it would also result in a considerable amount of wasted effort both in the initial classification action and in the ultimate declassification action which might be required by the DRC.

In view of the above, SAs Paul V. Daly and Joseph L. Tierney met with Deputy Assistant Attorney General Mary C. Lawton and Robert Keuch on 4/26/78. They agreed with this analysis of the problem presented and were aware of Mr. Skolnik's concern, and his desire to avoid classification issues, and to determine what material may be properly classified, and what material should be declassified, as promptly as possible.

It was noted that review of the issues and decision by the DRC will allow resolution of classification problems with regard only to those documents whose originals are now being requested for use in the prosecution. It does not provide a vehicle to resolve the issue of the classification of original documents or copies of FBI documents furnished to the Department during the lengthy Surreptitious Entries Investigation. Resolution of this aspect of the classification problem will be sought separately, the Department having been advised by memorandum dated 2/6/78, from John J. McDermott to Barnet D. Skolnik, captioned "U. S. vs. Kearney, Discovery Proceedings." Copies of this memorandum were designated for Ms. Lawton and Mr. Keuch.

Mr. Keuch advised he would arrange to have these classification issues examined and resolved by the DRC at its next regular meeting, on Tuesday, 5/2/78. He offered an earlier meeting if desired, but preparation for presentation of the matter precludes us from accepting his offer.

Those personnel handling classification review for the Defense Discovery Special will select a representative assortment of documents to be presented to the DRC. Presentation to the DRC will be handled by representatives of the FBI's Document Classification Office, who are normally responsible for such presentations. Mr. Keuch advised he had no reservations with regard to the identities of any FBI employees participating in the presentation, including any who may be involved in the Surreptitious Entries Investigation. He understands presentation involves advocacy and, therefore, sees no conflict.

~~SECRET~~

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. *WAB/10/8*
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

TO : Mr. Bassett

DATE: 5/1/78

FROM : P. V. Daly *(PVD)*

SUBJECT: UNITED STATES v. L. PATRICK GRAY, III, ET AL
RULE 16 DISCOVERY
REPORTED UNAUTHORIZED DISCLOSURE OF CLASSIFIED/
UNEXCISED FBI DOCUMENTS

PURPOSE: To record events leading up to reported unauthorized disclosure of classified information and of FBI documents prior to review by FBI personnel.

SYNOPSIS: Discovery under Rule 16 of the Federal Rules of Criminal Procedure ordered at the arraignment in captioned prosecution 4/20/78 necessitated delivery of copies of FBI documents to the offices of three different defense attorneys. Pursuant to requests received from the Department's "FBI Task Force" 4/20 and 4/21/78, originals of FBI documents with proper classification and copies with excisions of exempted material were delivered to the Department on 4/24 and 4/26/78. A fourth request from the Department by memorandum dated 4/24/78 was received; and pursuant to this request, 17 original documents were located. One of these documents was noted to be classified "Top Secret" and to require a compartmentalized clearance for access. Following the delivery to the Department of other properly reviewed documents 4/26/78, Departmental attorneys were advised of the sensitive nature and restricted access of this document; and they exhibited copies of it from our records bearing no classification markings. On 4/27/78, the Security Officer at the Department advised the FBI's Security Officer copies

Enclosures

- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 - Mr. Cregar
- 1 - Mr. Moore
- 1 - Mr. Bassett
- 1 - Mr. Ryan
- 1 - Mr. Daly

sf JLT:sjb/lab
(7)

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION
AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
EXEMPTION CODE 25X(1)
DATE 03-27-2009

Greenberg/Gray-5223

~~TOP SECRET~~

~~MATERIAL ATTACHED~~

~~DETACH BEFORE FILING~~

*Material detached 5/1/78 JFT
to be destroyed.*

(SYNOPSIS - CONTINUED)

62-118045-9
14 AUG 31 1978

8 4 SEP 14 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

~~SECRET~~

FBI/DOJ

~~SECRET~~

Daly to Bassett Memo
RE: United States v. L. Patrick Gray, III, Et Al
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

of the sensitive document and other FBI document not yet subjected to classification review or review for the excision of the exempted material had already been delivered to defense counsel. On Friday, 4/28/78, a meeting was held between representatives of the FBI's discovery compliance office, the Department's "FBI Task Force," the Security Officer of the Department, Deputy Assistant Attorney General Mary C. Lawton, and Special Assistant to the Attorney General Philip Jordan. Following this meeting, a quick review of the documents not previously reviewed by the FBI was accomplished and four were designated as the most sensitive, necessitating immediate retrieval from defense counsel, since the documents are not properly stamped and not all defense counsel have been given security clearances or access to compartmentalized information. Arrangements were made to retrieve the documents from Mr. Gray's attorney in Baltimore and Mr. Miller's attorney in Washington, D. C. Arrangements to retrieve the documents from Mr. Felt's attorney, who has them in his possession on a business trip to Las Vegas, are incomplete, but are being pursued. Arrangements will be made for FBI review of the balance of the materials now in the hands of the Department, but have been deferred pending retrieval of the most sensitive documents.

RECOMMENDATION: None, for information.

APPROVED: <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. _____	Ident. _____	Rec. Mgnt. <i>[Signature]</i>
Dep. AD Adm. _____	Intell. _____	Tech. Servs. _____
Dep. AD Inv. _____	Laboratory _____	Training _____
		Public Affs. Off. _____

[Signature]

DETAILS: On Thursday and Friday, 4/20-21/78, instructions were received by the office for compliance with Defense Discovery Requests concerning original documents, which the "FBI Task Force" prosecuting captioned case, needed to comply with discovery under Rule 16 of the Federal Rules of Criminal Procedure ordered at the arraignment on Thursday, 4/20/78. Two lists had been furnished to SA D. Michael Griffin on Thursday, and one list was furnished to SA on Friday.

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~~SECRET~~

~~SECRET~~

Daly to Bassett Memo
RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

Both instructions were to furnish the originals of documents, enclosures, or bulky exhibits and four copies to be furnished to the defense. After an initial disagreement over whether or not classification markings should be made on the originals prior to delivery, it was conceded by the Department such markings were required. On Monday, 4/24/78, it was discovered the original instructions were misleading, overlapping, and incomplete. Arrangements were made to deliver those documents which the Department indicated were most urgently needed, and the delivery was accomplished before close of business 4/24/78. A second delivery was made on Wednesday, 4/26/78, and a third delivery has been scheduled for Friday, 4/28/78. By memorandum dated 4/24/78, from Breck Willcox to Paul Daly, 17 additional documents relating primarily to that aspect of the case involving former Acting Director Gray were requested, also for delivery by Friday, 4/28/78.

We have been dealing primarily with Mr. James Savage, who shares office space with Mr. Breckenridge Willcox, both of whom are assigned to Barnet D. Skolnik, Chief of the "FBI Task Force."

On Wednesday, 4/26/78, Mr. Savage requested assistance in reconciling documents already delivered or to be delivered as listed on the three separate lists given to the FBI the preceding week. Two FBI employees were dispatched to make the second delivery and to assist in reconciling the requests at approximately 2:30 p.m.

At approximately 4:30 p.m., SA's Joseph L. Tierney and Sammy J. Miller went to the same office to see Messrs. Savage and Willcox concerning declassification of some of the documents and to discuss classification problems in general, it having been discovered one of the documents requested in Mr. Willcox's memorandum should have been classified "Top Secret" and required a compartmentalized clearance for access.

Following the declassification actions, which were taken on original documents delivered Monday, 4/24/78, Messrs. Savage and Willcox were advised at least one of the documents in Mr. Willcox's memorandum was extremely sensitive.

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Daly to Bassett Memo
RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

Mr. Willcox asked whether or not we were referring to a Branigan to Miller memorandum and produced a copy of the document from a folder on his desk. After examination, Mr. Willcox was advised this was indeed the document which was extremely sensitive. It was explained to him that the document should be classified sensitive and that it required compartmentalized access at the SI or perhaps even the TK level. Mr. Willcox indicated he did not understand classification procedures and had never been involved with them before. He shortly thereafter expressed his belief that 95 percent of the documents classified by the government should not be classified. This comment followed a discussion both of the sensitive document mentioned above and an explanation of the efforts being taken by the FBI to have the policy with regard to classification to protect sources and methods in domestic intelligence investigations reviewed by the Departmental Review Committee (DRC). This review was being sought in order to avoid unduly complicating the handling of exhibits by classifying them and subsequently declassifying them following review by the DRC.

Mr. Willcox was preparing to leave the office. He replaced the copy of the sensitive document in the folder and took it, together with several other folders, through an interior door to an adjacent office. Moments later he returned to the office and asked Mr. Savage for the location of the safe. Mr. Savage advised him the safe had been moved to the office of Mr. Paul Boucher.

At no time during the above conversation did either Mr. Savage or Mr. Willcox give any indication that the sensitive document had already been given to defense attorneys under Rule 16. At no time has any member of the "FBI Task Force" indicated that any other FBI documents other than those being reviewed and delivered to them on 4/24 and 4/26/78, were being given to the defense.

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Daly to Bassett Memo
RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

During the meeting, further effort was made to explain to Messrs. Savage and Willcox the special handling required for Top Secret documents and the special access required for compartmentalized information. They were advised that when the original and further copies of the sensitive document or any similar Top Secret documents were furnished, an accounting had to be made of all copies of the document which would be numbered, and copies already in their hands would have to be appropriately marked and added to the accounting to the documents being delivered.

The meeting concluded at approximately 5:30 p. m. with Mr. Savage, Mr. Willcox having departed, emphasizing the need to deliver originals at an even faster rate and not later than Friday, 4/28/78.

On Thursday, 4/27/78, the Document Classification/Security Officer at FBI Headquarters was apprised of the above, and he immediately notified the Security Officer at the Department of Justice. He was advised by the Departmental Security Officer that copies of the above sensitive document had been made and distributed to various personnel in the Department for review. The personnel in Mr. Skolnik's Office who originally held the copies and the individuals to whom the copies were distributed in the Department do not have compartmentalized clearances. In addition, the Departmental Security Officer has found six more copies of the document were made and have been given to the defense attorneys who also do not have compartmentalized clearance.

On Friday, 4/28/78, Deputy Assistant Attorney General Mary C. Lawton was advised by SA Paul V. Daly that Mr. Skolnik's Office had reportedly given the above sensitive document and possibly others to the defense counsel without any classification markings and without review by the FBI to make the usual excisions under discovery to protect sensitive sources and methods, ongoing investigations, and privacy of unrelated third parties; and the attorneys assigned to Mr. Skolnik, when advised of the sensitive nature of at least

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Daly to Bassett Memo

RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

one of the documents on 4/26/78, failed to report to the FBI that this document had already been given to the defense. Ms. Lawton advised she would proceed to Mr. Skolnik's Office in order to assess the situation.

A meeting was held in the office of the FBI "Task Force" attended by Department Attorney Paul Boucher, SA Daly, Ms. Lawton, Philip Jordan, Special Assistant to the Attorney General, later joined by Messrs. Willcox and Savage and SAs Tierney and Miller.

Copies of the materials which were delivered to defense attorneys on Tuesday, 4/25/78, were furnished for review. The object of the review was to isolate those documents whose extreme sensitivity necessitated their immediate retrieval from defense counsel. No attempt was made to cover all classification or source protection problems, such action being deferred in favor of immediate resolution of the most critical documents. Four documents were selected, the first of which is the original sensitive document mentioned above.

1. Memorandum from W. A. Branigan to Mr. Miller, 5/31/72, captioned "Major Intelligence Programs."
2. Memorandum from Mr. E. S. Miller to Mr. W. M. Felt, 9/7/72, captioned "Al Fatah, Internal Security - Middle East."
3. Teletype from Acting Director to SACs Alexandria, et al, 9/7/72, captioned "Al Fatah, Internal Security - Middle East."
4. Memorandum from E. S. Miller to Mr. W. M. Felt, 9/21/72, captioned "Al Fatah, Internal Security - Middle East."

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Daly to Bassett Memo

RE: United States v. L. Patrick Gray, III, ET AL

Rule 16 Discovery

Reported Unauthorized Disclosure of Classified/

Unexcised FBI Documents

None of the above documents were stamped indicating classification level with the exception of the 9/7/72 and 9/21/72, which were marked "June."

Envelope detached 5/1/78 Sfr
Attached in an envelope stamped "Top Secret" are copies of the four documents as they exist in the Departmental files and as they were sent to defense attorneys with the exception of the 9/7/72 memorandum, which bears a valid stamp, it having been copied from the FBI record copy of the document which has now had proper classification markings added.

The first document listed above contains compartmentalized information which will require clearance from the National Security Agency before any further handling of the document by the Department is accomplished. It requires a compartmentalized clearance to review. It also jeopardizes two former Bureau sources no longer in this country and in general jeopardizes to some extent our capabilities in the foreign intelligence area.

(S) The 9/7/72 memorandum compromises an FBI informant in [redacted] since it sets forth information concerning a relationship between [redacted] organization which we can only presume is known only to the informant and one other person.

b7D

b1

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~~SECRET~~

Daly to Bassett Memo

RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

Memorandum 9/21/72 contains information concerning the target of a surreptitious entry in Dallas which was approved by Acting Director Gray, the full details of which have not been disclosed although the fact that one such entry did occur has been publicized. There is additional information in the memorandum the source of which is not clear since it is a summary memorandum but which could have come from foreign intelligence agencies.

The Department is making immediate arrangements to retrieve the copies of these four documents already furnished to defense attorneys. Mr. Miller's defense attorney has been contacted in Washington and is willing to return the documents. Mr. Gray's attorney in Baltimore has also been contacted and will turn them over to a representative of the Department who is traveling to Baltimore. Mr. Felt's attorney cannot be contacted although his office is trying to locate him in Las Vegas where he has traveled on business with the documents in his possession. The Department will attempt to arrange to have the documents in Las Vegas placed in a sealed envelope in the office of a U. S. Marshal over the weekend to be returned to Washington by the attorney in time for a meeting scheduled for all defense attorneys on Tuesday, 5/2/78.

Mr. Boucher advised SA Daly he was aware of the agreement that no materials were to go to the defense without prior review by the FBI and thought this agreement had been honored. He was not aware that documents had been furnished to the defense on 4/25/78 which had not been subjected to review by the FBI for the purpose of making classification determinations and excisions of material exempt from discovery. Mr. Willcox stated that he was not aware of such an agreement which he assumed had been made prior to the turn over on the task force in December 1977.

The meeting was joined by Chuck Trombetta from the Security Office of the Department. Mr. Trombetta took into his possession all readily available copies of the most sensitive documents to be placed in an approved container in his office.

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Daly to Bassett Memo

RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosure of Classified/
Unexcised FBI Documents

It was pointed out and generally discussed by Mr. Trombetta, the representatives of the FBI Task Force and SAs Miller and Tierney that an incomplete review had now been done. The documents to be made available to the defense and those already given out have not received in most cases a full classification review or a review to excise materials exempt under discovery. The existence of other copies of the above four documents in the 81 volumes of material furnished by Mr. Long to the FBI Task Force during the Surreptitious Entries Investigation and the lack of a classification review of this material was also discussed. It was noted the FBI had apprised the Task Force of the nature of the material in their hands which they acquired during their investigation by memorandum dated 2/6/78 from John J. McDermott to Barnet D. Skolnik, captioned "U. S. vs. Kearney, Discovery Proceedings." Mr. Trombetta asked if he could have a copy of this memorandum and he was advised one would be furnished.

Mr. Trombetta expressed his concern and indicated he would consult with his superiors with a view towards asking the FBI to form a task force to review from a classification standpoint all FBI documents now in the hands of the "FBI Task Force."

It was also pointed out to Messrs. Boucher, Savage, and Willcox that a second review of the documents furnished to defense attorneys would be necessary and that it might be necessary to return more copies of documents from defense counsel in order to make excisions. This more complete review will be accomplished when the four most sensitive documents are back in Departmental control. They were advised the defense has been given some documents which are stamped classified and do not reflect recent declassifications and that there was some inconsistent classification which we were not able to resolve at the scene since some research was involved.

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Daly to Bassett Memo

RE: United States v. L. Patrick Gray, III, ET AL
Rule 16 Discovery
Reported Unauthorized Disclosures of Classified/
Unexcised FBI Documents

ADDENDUM: At approximately 2:10 p. m. Mr. Boucher advised SA Tierney by telephone he had determined the sensitive documents had not, in fact, been brought to Las Vegas by Mr. Felt's attorney but had been left in an office safe in Arlington, Virginia. Mr. Boucher stated he was making arrangements to retrieve these documents on 4/28/78.

~~SECRET~~

Special Counsel to the
Assistant Attorney General
Barnet D. Skolnik
Criminal Division
John J. McDermott
Deputy Associate Director
Federal Bureau of Investigation
U. S. vs. KEARNEY
DISCOVERY PROCEEDINGS

2/6/78

The initial review of the records furnished by Mr. Richard E. Long to Mr. William L. Gardner of the Civil Rights Division beginning in 1976 has included a partial review of the material to determine whether or not it contains information which should be classified in the interest of national defense or foreign relations under Executive Order 11652.

Although our review is partial in the sense that we are not marking as classified all information potentially classifiable, we have determined a large amount of the material is classified. Classification has been primarily at the Confidential and Secret level, although numerous items classified Top Secret have been reviewed.

Our normal procedure in the course of such review would require us to notify all holders of copies of the documents of each classification action taken. This would include declassifications as well as documents containing classified information which are newly so marked. The notification would go to all holders of copies both within the FBI and outside the FBI including the Department of Justice and other Federal agencies.

Such a notification program at this time would hinder our review of records pursuant to the court ordered discovery. We assume the requirement to mark your copies of the documents would constitute a similar hindrance to your operation. A complicating factor lies in the fact that the classification review is not complete and further classification action may be necessary if any of the documents are needed in the future, such as if the prosecution or the defense desires to introduce them at trial.

1 - Mr. Bassett
(Attention:)
1 - Mr. Daly

b6
b7C

(SEE NOTE - PAGE TWO)

Greenberg/Gray-5233

JLT:sjb
(6)

COPY
Do Not File

The Special Counsel to the
Assistant Attorney General
Criminal Division

Since adherence to our normal procedures is impractical at this time, the only solution for the moment is for you to regard the entire package of material furnished by Mr. Long as classified under Executive Order 11652. The ultimate solution of the problem can be postponed, but would involve either the posting of classification warnings, destruction of the material, or the returning of the material to the FBI's control for appropriate disposition.

If you have any questions, please do not hesitate to contact Mr. Paul V. Daly or Mr. Joseph L. Tierney on Extension 3542.

1 - Mary C. Lawton
Deputy Assistant Attorney General
Office of Legal Counsel

1 - Robert Keuch
Deputy Assistant Attorney General
Criminal Division

NOTE: Instant letter prepared to apprise Mr. Skolnik of the problem which now exists with regard to classification markings and to propose a temporary solution. Although Departmental officials and Mr. Skolnik are obviously aware the records furnished to them contained sensitive information, the volume of classification actions now being taken makes formal notification appropriate.

~~SECRET~~

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

28
Director, Central Intelligence Agency
Attention: General Counsel
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6882, JEN

5-9-78

~~INTERNAL SECURITY~~

U. S. v. L. PATRICK GRAY III, JR. et al.
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

4 - 1
delivered
by liaison 5/10/78
Wm JW

(S)

[REDACTED]
[REDACTED]
[REDACTED] Also attached is a copy of a teletype
dated September 7, 1972, from our Headquarters to several of
our Field Offices. Both documents are classified "SECRET."
(S) Our document has been exempted from the general declassification
schedule under Category 2 because it contains information
[REDACTED]

b1

The FBI teletype is required for use in the
prosecution of captioned case. The prosecutor intends to
introduce it in evidence at the trial. [REDACTED]

(S)

[REDACTED]
[REDACTED]

b1

62 - 118045 - 8
Since the prosecutor in the Department of Justice
desires to use the teletype at trial, a classification review
to insure current compliance with the provisions of Executive
Order 11652 is required. Our classification of the document
at the "SECRET" level [REDACTED]

b1

(S)

[REDACTED] although we
would classify other materials in the teletype "CONFIDENTIAL."
AUG 31 1978

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

Since this is a document which is especially critical
to the prosecution's case, they are most interested in having
it declassified or downgraded, or in isolating within
paragraphs the specific material resulting in the overall
classification of the document. We, therefore, seek verifi-

Enclosures (3)

1 - Mr. Cregar
1 - Mr. Bassett

1 - [REDACTED]

4 Baly 6888 (SEE NOTE PAGE 2)

JK:Gnd
(6)

~~SECRET~~

Greenberg/Gray-5235
b7C

FBI/DOJ

8 4 SEP 14 1978

~~SECRET~~

Director, Central Intelligence Agency

cation, both of the overall classification and of the specific elements in the document which caused the classification. For this reason, the teletype is also enclosed in excised form so that you can verify those elements of the first paragraph which we believe support the classification. Those elements of the document would be excised before the document is used at trial, both from the standpoint of protection of classified information and from the standpoint of source protection, which we anticipate both the Department of Justice and the United States District Court will honor.

If you consider it desirable to meet in person to discuss this single document or the additional documents which we expect to encounter in processing material for the prosecution and defense which involve your agency's interests, we would be most happy to oblige. Please feel free to contact me or Special Agents Joseph L. Tierney or Emily J. Miller at 324-3542. Although we expect to encounter additional material requiring consultation with you, the attached teletype is the most critical to the prosecution and requires the most expeditious handling.

- (S) 1022: Bureau teletype September 7, 1972, located at 105-103400-1296. [redacted] The teletype, which was initialed by former Acting Director Gray, is one of 17 whose originals are desired by the Department for use during trial. Prompt resolution is necessary for the prosecution to comply with discovery of documents ordered April 20, 1978, under Rule 16, Federal Rules of Criminal Procedure. "SECRET" marking not being removed until [redacted] concurs with excissions [redacted] b1
- (S) [redacted]

~~SECRET~~

~~SECRET~~
No Foreign Dissemination
IMMEDIATE

CODE

TELETYPE

1 - Mr. E.S. Miller
1 - Mr. A.J. Decker
1 - [REDACTED]
1 - Mr. Morgan

b6
b7C

TO: SACS, ALEXANDRIA
ATLANTA
ALBANY
BALTIMORE
BOSTON
BUFFALO
CHARLOTTE
CHICAGO
CLEVELAND
DALLAS
DETROIT
HOUSTON
JACKSON
JACKSONVILLE

KANSAS CITY
LOUISVILLE
MIAMI
NEW YORK
NEW HAVEN
OKLAHOMA CITY
PHOENIX
PITTSBURGH
SALT LAKE CITY
SAN FRANCISCO
SAN JUAN
SEATTLE
SPRINGFIELD
WFO

PERSONAL ATTENTION

J U N E

FROM: ACTING DIRECTOR, FBI

AL FATAH, INTERNAL SECURITY - MIDDLE EAST.

REVIEWED BY 14828
5/1/78
MPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE
P/771
12/7/12

REGAIRTEL NOVEMBER ONE, NINETEEN SEVENTY-ONE, CAPTIONED

[REDACTED] IS - MIDDLE EAST," SETTING FORTH [REDACTED]

[REDACTED] BUTEL SEPTEMBER FIVE, LAST, DUAL
CAPTIONED, "AL FATAH, IS - MIDDLE EAST; JEWISH DEFENSE LEAGUE,
IS - NATIONALISTIC TENDENCY - JDL," SETTING FORTH URGENCY OF
CURRENT SITUATION BASED ON ACTION BY AL FATAH'S "BLACK

SEPTEMBER" GROUP, MUNICH, GERMANY, SEPTEMBER FIVE, LAST;

BUTEL FEBRUARY FOUR, LAST, INSTANT CAPTION, SETTING FORTH

INSTRUCTIONS FOR INVESTIGATIONS OF FATAH CADRE AND LEADERS OF

COMMUNICATIONS SEC. REC-28
EX-116

Felt _____
Baker _____
Bates _____
Bishop _____
Callahan _____
Cleveland _____
Conrad _____
Dalbey _____
Jenkins _____
Marshall _____
Miller, E.S. _____
Ponder _____
Se. ara _____
Walters _____
Tele. Room _____
Mr. Kinley _____
Mr. Armstrong _____
Ma. Herwig _____
Mrs. Neenan _____

HJM:dgo
(6)

TELETYPE

2 SEP 12 1972
SEE NOTE PAGE TWO

ROUTE IN ENVELOPE

~~SECRET~~

Greenberg/Gray 5237

ENCLOSURE

~~SECRET~~
NO FORN

TELETYPE TO SAC, ALEXANDRIA
RE: AL FATAH

ANY PRO-FATAH GROUP [REDACTED]
[REDACTED]
[REDACTED]

WHICH LEADERS, BECAUSE OF THEIR PRO-ARAB SYMPATHIES, MIGHT
BE SECRET FATAH MEMBERS OR UTILIZED BY FATAH TO CARRY OUT
OPERATIONAL OR SUPPORT ROLES IN TERRORIST ACTIVITIES IN
(U) THE U. S. (S)

RECIPIENTS IMMEDIATELY INSTITUTE [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

THIS MATTER IS TO BE
HANDLED MOST EXPEDITIOUSLY AND YOU ARE TO SUTEL RESULTS
WITH SPECIFIC RECOMMENDATIONS REGARDING [REDACTED]
[REDACTED]
(U) [REDACTED] (S)

NOTE:

Terrorist activities, Munich, Germany, 9/5/72, by
Al Fatah group and information received indicating [REDACTED]
[REDACTED] dictate Bureau
should utilize all investigative means possible to ferret
out individuals to be involved and take action to preclude
any embarrassing terroristic activities in this country.
Instructions issued to have [REDACTED]
(U) [REDACTED] (S)

Greenberg/Gray-5238

~~SECRET~~
NO FORN

~~SECRET~~ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED EXCEPT
WHERE SHOWN OTHERWISE

F B I

Date: 11/1/71

Transmit the following in _____

(Type in plaintext or code)

A I R T E L

(Priority)

EXEMPTED FROM AUTOMATIC
DECLASSIFICATION

AUTHORITY DERIVED FROM:

FBI AUTOMATIC DECLASSIFICATION GUIDE

EXEMPTION CODE 25X(1-human)

DATE 03-27-2009

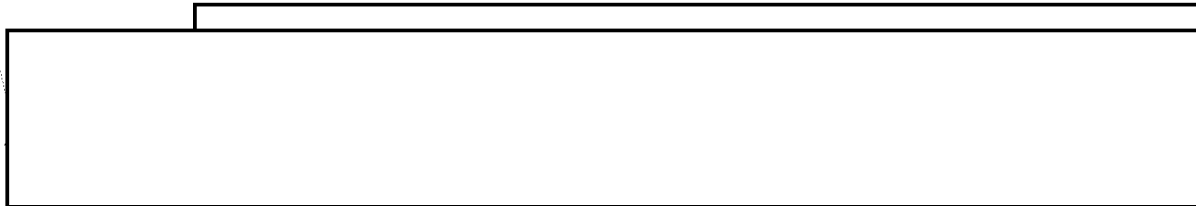
(S) TO : DIRECTOR, FBI () b1

FROM : SAC, CHICAGO () (P) b2
b7D(S) SUBJECT: () b1
IS - ME

(OO: CHICAGO)

Re Chicago airtel, 9/20/71.

(S)



b1

ENCLOSURE

- | | |
|----------------------------------|-----------------------------------|
| 2 - Bureau (Encs. 10) (RM) | 2 - Phoenix (Encs. 4) (RM) |
| 2 - Alexandria (Encs. 4) (RM) | 2 - Salt Lake City (Encs. 4) (RM) |
| 2 - Atlanta (Encs. 4) (RM) | 2 - San Francisco (Encs. 4) (RM) |
| 2 - Albany (Encs. 4) (RM) | 2 - San Juan (Encs. 4) (RM) |
| 2 - Boston (Encs. 4) (RM) | 2 - Seattle (Encs. 4) (RM) |
| 2 - Buffalo (Encs. 4) (RM) | 2 - Springfield (Encs. 4) (RM) |
| 2 - Charlotte (Encs. 4) (RM) | (CHICAGO COPIES CONTINUED ON |
| 2 - Dallas (Encs. 4) (RM) | PAGE 2) |
| 2 - Detroit (Encs. 4) (RM) | |
| 2 - Houston (Encs. 4) (RM) | |
| 2 - Jackson (Encs. 4) (RM) | |
| 2 - Jacksonville (Encs. 4) (RM) | |
| 2 - Kansas City (Encs. 4) (RM) | |
| 2 - Louisville (Encs. 4) (RM) | |
| 2 - Miami (Encs. 4) (RM) | |
| 2 - New York (Encs. 4) (RM) | |
| 2 - New Haven (Encs. 4) (RM) | |
| 2 - Oklahoma City (Encs. 4) (RM) | |
| 2 - Philadelphia (Encs. 4) (RM) | |
| 2 - Pittsburgh (Encs. 4) (RM) | |

EX-112

REC 31/27-11-10-10

NOV 5 1971

NAT. INT. SEC.

JMD/DAR
(66)

Approved: _____

59 DEC 2 1971

Special Agent in Charge NOV 9 1971

Sent _____

M

Per _____

~~SECRET~~
ENCLOSURE

Greenberg/Gray-5299

105-183400-501
UNRECORDED COPY FILED IN

~~SECRET~~

CG



b2
b7D

14 - Chicago

(S) (1 - [redacted])
(1 - 105-27889) (AL-FATAH)
(1 - [redacted])
(1 - [redacted])
(1 - [redacted])
(1 - 105-31425) ([redacted])
(1 - 105-29351) ([redacted])
(1 - [redacted])
(S) (1 - 105-New)
(1 - 105-New)
(1 - 105-New)
(1 - 105-New)
(1 - 105-New)

b1
b6
b7C

JMD/bak
(66)

- 2 -

~~SECRET~~

Greenberg/Gray-5240

~~SECRET~~

b2
b7D

[REDACTED]

(S)

b1

(S) For the information of offices which have received b1
no prior communications under the [REDACTED] caption:

(S)

b1

(S) Chicago will furnish information [REDACTED]
[REDACTED] by separate communication.

b1

LEADS

Recipient offices are requested to conduct discreet, limited investigations to identify individuals in their territories through agency checks and contact with established sources.

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-27-2009

Director, National Security Agency
Attention: General Counsel
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JTH

5-9-78

BY LIAISON

U. S. v. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

DELIVERED BY
On 5-9-78
A. J. Kline, Jr.

Attached is a copy of relevant portions of an internal FBI memorandum from W. A. Branigan to E. S. Miller dated May 31, 1972, and captioned "Major Intelligence Programs." The memorandum is classified "TOP SECRET - UMBRA." Also attached is an excised copy of this memorandum. Excisions have been made with a view toward removing all classified material from the copy. Until we receive your final approval or your concurrence with this evaluation; however, we have marked the excised version as "CONFIDENTIAL" as a precautionary measure. (U) (S)

The office handling prosecution in captioned case desires to use the attached document at trial. A classification review to insure current compliance with the provisions of Executive Order 11652 is, therefore, required. Preliminary review by FBI personnel has resulted in the conclusion, the document should be classified "TOP SECRET - UMBRA" since it involves general policy and past history of efforts by FBI to secure material for use by your agency. The material was obtained through live sources as well as other investigative techniques, as set forth in the document. (U) (S)

Since this is a document which is especially critical to the prosecution's case, they are most interested in having the document declassified or downgraded, or to isolate within paragraphs the specific material resulting in classification of the overall document. Verification is, therefore, sought; both of the overall classification assigned and of those specific elements in the document which cause the classification. (U)

A substantial portion of the document does not involve your agency and will be handled completely by the FBI.

ENCLOSURE
1 - Mr. Cregar
1 - Mr. Sasseff
1 - [Redacted]
1 - [Redacted]

b6
b7C

REC-110

(SEE NOTE PAGE 2)

~~CONFIDENTIAL~~

~~TOP SECRET - UMBRA~~
Material Attached

AUG 31 1978

Greenberg/Gray-5251

FBI/DOJ

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

8 4 SEP 14 1978

We believe your agency has the primary interest and should set the classification policy for that material commencing on page 1, under the first program heading, and continuing through the end of page 2. In addition, the paragraph which begins at the end of page 3 and carries on to the top of page 4 consists of information received from your agency. (U)

Enclosures (2)

NOTE: Original document not placed on record and continues to exist in the same form as it was found 8-19-76: in a filing cabinet in CI-1 Section, INTR: marked "Sensitive Programs" in a folder which is in possession of Defense Discovery Special. Memorandum 8-20-76, from E. C. Peterson to Mr. T. W. Leavitt and captioned "SURREPTITIOUS ENTRY" records the finding of the Branigan memo at 62-117106-42 and has a copy of the memo attached. (U)

(U) Instant letter classified "~~CONFIDENTIAL~~" since it mentions classification of enclosure as "~~TOP SECRET - U.S.S.R.~~" (X)

Memorandum

~~TOP SECRET~~

- Felt ☒
- Mohr ☐
- Rosen ☐
- Bishop ☐
- Callahan ☐
- Campbell ☐
- Casper ☐
- Cleveland ☐
- Conrad ☐
- Dalbey ☐
- Marshall ☐
- Miller, E.S. ☒
- Ponder ☐
- Soyars ☐
- Walters ☐
- Tele. Room ☐
- Mr. Kinley ☐
- Mr. Armstrong ☐
- Ms. Herwig ☐
- Ms. Neenan ☐

TO : MR. E. S. MILLER

DATE May 31, 1972

FROM : W. A. BRANIGAN

ORIGINAL ONLY
DO NOT FILE

SUBJECT: MAJOR INTELLIGENCE PROGRAMS

On May 30, 1972, Acting Director Gray inquired, "What major intelligence programs, if any, have been abolished?" He also asked for the reasons for their discontinuance and whether these programs should be reinstituted. Specifically, Acting Director Gray asked, "What is necessary to reinstitute them?" (//)

The following are major intelligence programs formerly conducted by the Bureau but which are now discontinued:

PROGRAM

[REDACTED] This was largely accomplished through [REDACTED]. But there were some isolated instances when [REDACTED] in [REDACTED] we successfully [REDACTED] for example, [REDACTED] available [REDACTED] made [REDACTED] later extending through [REDACTED] we were able to [REDACTED]

During the years of operation, the Bureau was successful

[REDACTED]

By letter dated [REDACTED] we advised the then Attorney General Ramsey Clark of [REDACTED] and asked for authority to attempt to [REDACTED] and pointed out that such operations involved [REDACTED]. By letter of [REDACTED] permission was declined. In [REDACTED] renewed his request

WAB:hke (1) [REDACTED] CONTINUED - OVER

ROUTE IN ENVELOPE

ENCLOSURE

Greenberg/Gray-5253

Downgraded to Secret
60324 oct 20 3-6-2009

EXEMPT FROM GDS CATEGORY 2, 3, 4
DATE OF DECLASSIFICATION INDEFINITE
1/22/04
6/10/04

Memorandum from W. A. Branigan to Mr. E. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

which was later withdrawn in [REDACTED] The Attorney General
was notified of the request [REDACTED] but had not responded
(U) at the time when the request was withdrawn. X

In [REDACTED] requested [REDACTED]
(U) [REDACTED] This request was declined in [REDACTED] X

In [REDACTED] [REDACTED] stated that he believed that it would
be advantageous to [REDACTED] [REDACTED]
was advised that the Director stated that he would not engage
(U) in this program unless directed to do so by the Attorney General. X

On [REDACTED] the Director wrote the
Attorney General pointing out the grave risks involved in such
an operation and further that the planned [REDACTED]
(U) [REDACTED] would represent a new [REDACTED] X

It is our considered opinion that we should reinstitute
the [REDACTED] Program on a limited basis where the [REDACTED]
[REDACTED] can be obtained through cooperating
sources. It is our considered judgment that the Bureau at this
time should not embark on a program of [REDACTED]

[REDACTED] In this regard we
recognize the grave consequences to [REDACTED]

We recognize the additional [REDACTED]

[REDACTED] the increased alertness of [REDACTED]

and
finally we recognize the [REDACTED]

(U) [REDACTED] X

In order to reinstitute a program involving the
[REDACTED]
it would be necessary to assemble selected personnel in the major
offices and [REDACTED]
These personnel would necessarily have to [REDACTED]

(U) [REDACTED] X

Based upon information received from [REDACTED]

- 3 -

CONTINUED - OVER

Greenberg/Gray-5255

Memorandum from W. A. Branigan to Mr. E. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

[REDACTED] is one of the most
difficult problems that we face.

(U)

Greenberg/Gray-5256

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

TO : Mr. Bassett *AMB*

DATE: 5-12-78

FROM : Mr. Daily

L. Patrick Gray II

SUBJECT: U. S. v. GRAY, FELT, AND MILLER

W. Mark Felt, Edward B. Miller

PURPOSE: To advise of receipt of informal discovery request and the Government's response, thereto.

h
28
DETAILS: By three letters dated May 1, 1978, (copies attached), counsel for captioned defendants presented to the Department discovery requests in conformance with local court rules requiring counsel to resolve discovery matters prior to filing of formal motions which is slated for May 22, 1978. While there are some differences, essentially, the three requests are directed toward reaching the same material. The Government's response, as contained in its letter of May 10, 1978, (copy attached), generally restricts the discovery to Weathermen investigative files and policy relating to the use of surreptitious entries. Certain portions of the defense attorney's letters are properly classifiable. For example, Thomas A. Kennelly, attorney for Miller, requested information relating to contacts with the Cuban Mission to the United Nations. In this regard, the Department will be alerted to the potential for disclosure of sensitive material in connection with oral arguments concerning those portions of the discovery request denied by the Government. Similar problems arose during discovery arguments relating to Kearney's indictment and as a result, the arguments were held in camera and the discovery order sealed. This procedure would appear appropriate in this matter, also.

The Department's response which reserves the right to redact material "to protect ongoing investigations and to prevent undue embarrassment or injury to unrelated third parties," does not allow, on its face, excisions to protect sources or methods, and in this regard, it is departure from the standards for redaction used in the Kearney matter.

Enclosures (3) *ap*

4-ENCLOSURE

- 1 - Mr. Bassett
- 1 - Mr. Adams
- 1 - Mr. McDermott
- 1 -
- 1 -

b6
b7C

PVD:dmd

dmd

Greenberg/Gray *5254*

(CONTINUED OVER)

1978
AUG 31 1978
FBI IS



8 SEP 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ

Daly to Bassett Memo

Re: U. S. v. Gray, Felt, and Miller

Also of interest, is the Government's agreement to the extent covered by Brady to furnish in response to question 10 of the discovery request by Mr. Gray, "All threats of indictment or the institution of disciplinary action made by the Government to any person in connection with the investigation and/or prosecution of this case."

We anticipate meetings with the Department concerning their responses to the discovery request and will raise questions presented by their response.

RECOMMENDATION: For information.

per

APPROVED: <i>[Signature]</i>	Adm. Serv. _____	Legal Coun. _____
Director _____	Crim. Inv. _____	Plan. & Insp. _____
Assoc. Dir. <i>[Signature]</i>	Ident. _____	Rec. Mgnt. <i>[Signature]</i>
Dep. AD Adm. <i>[Signature]</i>	Intell. _____	Tech. Servs. _____
Dep. AD Inv. <i>[Signature]</i>	Laboratory _____	Training _____
		Public Affs. Off. _____

Greenberg/Gray-5258

LAW OFFICES

Diuguid, Siegel & Kennelly

One Thousand Connecticut Avenue, N.W.

Suite 1112

Washington, D. C. 20036

(202) 872-0700

Miller
file copy

JOHN P. DIUGUID**
THOMAS L. SIEGEL*
THOMAS A. KENNELLY*
KARL W. PILGER*

May 1, 1978

OF COUNSEL
HOWARD S. EPSTEIN

MARYLAND OFFICES

107 W. JEFFERSON ST.
ROCKVILLE, MD. 20850

3737 BRANCH AVENUE
HILLCREST HEIGHTS,
MARYLAND 20031

*D.C.
*MD.

Barnet D. Skolnik, Esquire
Special Counsel Criminal Division
U. S. Department of Justice
Room 2244
Washington, D. C. 20530

Re: U.S. v. Gray, et al.

Dear Mr. Skolnik:

Attached herewith please find our
informal Request for a Bill of Particulars and
Discovery Requests submitted on behalf of defendant
Edward S. Miller.

Sincerely

DIUGUID, SIEGEL & KENNELLY

By

Thomas A. Kennelly
Thomas A. Kennelly

Attachments

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

62-118045-10
ENCLOSURE

Greenberg/Gray-5259

DISCOVERY REQUESTS

GENERAL

1. The names of all "attorneys for the Government," within the meaning of Rule 6(d), who were present when the Grand Jury was in session, including the Grand Jury which returned this indictment and its predecessor Grand Jury which heard testimony in this case.
2. A copy of the directives or orders in February 1973 which redesignated the Domestic Intelligence Division as the Intelligence Division of the FBI.
3. The complete criminal record of all Weatherman fugitives referred to in paragraph 5 of the indictment, together with copies of the pertinent fugitive warrants and supporting affidavits.
4. The complete criminal record of all persons whom the Government intends to call as witnesses, or at this time contemplates might be called as witnesses.
5. All FBI directives or memoranda generally authorizing the utilization of undercover FBI agents in Weatherman investigations and generally describing the training of such undercover agents.
6. The FBI personnel file of Edward S. Miller.
7. A written list of the names and addresses of all Government witnesses which the Government intends to call in the presentation of the case in chief together with any record of prior felony convictions of any such witnesses which are within the knowledge of the attorneys for the Government. [ABA Standards, Sec. 2.1(a)(i)]
8. Relevant written or recorded statements, including Grand Jury minutes of relevant testimony of persons intended to be called as witnesses at trial. [ABA Standards, Sec. 2.1(a)(i) and (iii)]
9. Any materials or information in the possession or control of the prosecutors which tends to negate the guilt of the accused as to the offense charged or would tend to reduce his punishment therefore. (ABA Standards, Sec. 2.1(c))
10. All written statements and the substance of all oral statements made by this defendant which the Government intends to offer in evidence at trial.
11. All written statements and the substance of all oral statements made by any other co-conspirators during the course of the conspiracy which the Government intends to offer in evidence at trial against this defendant.

12. All written statements and the substance of all oral statements made prior to or after the conspiracy by co-defendants which the Government intends to offer in evidence at trial. (Bruton v. U.S., 391 U.S. 123.)
13. All FBI documents reflecting the purpose of, reasons for, and anticipated results of the surreptitious entries referred to in the indictment.
14. All promises, inducements, rewards, or immunity given by the Government to any person it intends to call as a witness at trial.
15. Statements of all persons interviewed reflecting what such persons heard Mr. Gray say, material to the offense charged in this indictment, when he spoke to groups of FBI officials, as alleged in Overt Acts No. 2 and No. 4.
16. All information in the FBI files which shows that the "relatives and acquaintances of Weatherman fugitives" referred to in the indictment had contact with, supported, aided, abetted, or in any way assisted said Weatherman fugitives.

APPROVAL OF HIGHER AUTHORITY/
MISTAKE OF LAW/CRIMINAL INTENT

- (1) 17. A document entitled "POSITION PAPER ON JURISDICTION, 2/13/75, FBI Intelligence Division," together with all supporting papers.
- (2) 18. A document entitled "An Analysis of FBI Domestic Security Intelligence Investigations: Authority, Official Attitudes, and Activities in Historical Perspective, 10/28/75," together with all supporting papers.
- (3) 19. All documents issued by the President of the United States or any agency of the Government, effective since 1950 to the present, which define, describe, or explain the term "surreptitious entry."
- (4) 20. All orders, directives, policy statements, or guidelines, issued to or by the FBI regarding the "technique of surreptitious entry," effective 1950 to the present, including but not limited to:
 - a. Such documents which describe under what circumstances surreptitious entries are legal and under what circumstances they are illegal.
 - b. Such documents which describe what prior approval is required for utilization of the technique of surreptitious entry.

c. The so-called "Hoover memos" of 1966 and 1967.

- (5) 21. All documents showing dissemination of any or all of the documents called for in paragraph 20 above to the following offices of the FBI in which Mr. Miller served during the periods indicated below.
- Los Angeles, 1950-51
San Francisco, 1951-62
FBI Headquarters, 1962-66, 1969-74
Mobile, 1966
Honolulu, 1966-69
Chicago, 1969
- (6) 22. All FBI records and all records in the possession of the Government, showing that special agents of the FBI conducted surreptitious entries from 1950 through 1974, including documentation showing whether or not such surreptitious entries were approved by the President of the United States, the Attorney General, the Director of the FBI, other Government official, or a court order.
- (25) 23. All prosecutive reports from FBI special agents to federal prosecutors prepared from 1950 through 1974 which reveal, either directly or by interpretation of FBI code symbols or other nomenclature that special agents of the FBI conducted surreptitious entries.
- (26) 24. All communications from FBI Headquarters to the Departments of Justice or other Government agencies prepared from 1950 through 1974 which reveal, either directly or by interpretation of FBI code symbols or other nomenclature, that special agents of the FBI conducted surreptitious entries.
- (7) 25. Those portions of all Department of Justice directives, guidelines, policy statements, orders, memoranda, or manuals effective from 1950 to the present which set forth the conditions for prosecution of FBI employees who utilize the technique of surreptitious entry.
- (15) 26. All documents and memoranda prepared by the White House, Department of Defense, CIA, Department of Treasury, Department of State, NSA, Department of Justice, and the FBI concerning plans to deal with the Weatherman Underground Organization and other terrorists groups from 1969 through 1974, including but not limited to the so-called "Huston Report" in 1970 or 1971.
- (16) 27. All documents showing communication between the White House and the Department of Justice, and the White House and the FBI, concerning plans and investigative methods to deal with the Weatherman Underground Organization and other terrorists groups from 1969 through 1974, including but not limited to:
- a. a memorandum prepared in the early 1970's by
[redacted] FBI liaison to the White

b6
b7c

House, which related a conversation with Mr. Egil Krogh, the substance of which was that Mr. Krogh stated that President Nixon wanted the FBI to use all means possible to stop terrorist activities.

- (17) 28. Those portions of all tapes and transcripts of White House conversations in which the Weatherman Underground Organization and/or other terrorist groups were discussed, during the period from January 20, 1969 through May 31, 1973.
- (18) 29. All documents, including reports and statements of persons interviewed, which indicate that there was an absence of approval by authorities higher than these defendants of the surreptitious entries alleged in the indictment, or that said higher authorities disapproved such surreptitious entries.

NATIONAL SECURITY

- (8) 30. All documents issued by the President of the United States or any agency of the Government, effective since 1950 to the present, which define or distinguish between the following terms:
 - a. "National security," "domestic security," and "internal security."
 - b. "Foreign intelligence" and "domestic intelligence."
- (9) 31. Documents prepared by a joint Department of Justice/FBI committee known as the "Department Review Committee" which reflect that on or about April 8, 1976 and again on or about August 31, 1976, said Committee designated the Weatherman investigation as a national security matter.
- (10) 32. All other documents which reflect that the Weatherman Underground Organization was ever classified by any government agency or committee as a national security threat or a threat to the internal security of the United States.
- (11) 33. All documents in the possession of the Department of Justice, the FBI, DOD, CIA, NSA, Department of Treasury, and State Department which show that members of the Weatherman Underground Organization had connections with foreign countries, traveled to or from foreign countries, sent or received communications to or from foreign countries, or received financial or other assistance from foreign countries. Such documents include but are not limited to pertinent documents from the following sources:

- a. The so-called "Chicago Report"; more specifically, a report compiled by the Chicago office of the FBI detailing the relationship of members of the Weatherman organization and foreign governments or agents.
- b. Any electronic surveillance which discloses the information requested in this paragraph including electronic surveillance of one [redacted] a Weatherman member, which indicates contact with the government of North Vietnam. b6
b7C
- c. Internal documents of the Weatherman organization including all copies in the possession of the government of the publication "Osawatomie," the Weatherman periodical.
- d. Any and all reports of foreign law enforcement or governmental agencies including but not limited to [redacted] b7D
- e. Documents in FBI files showing communications between the Weatherman organization, SDS, the "Venceremos Brigade," and the Cuban Mission to the United Nations.
- f. Pertinent documents from FBI files designated as "109-12" (foreign political matters) and all sub-files thereunder.
- g. Pertinent documents from FBI files designated as "66-1686" (the "June file").
- h. Pertinent documents from FBI files described as "Foreign Influence in the New Left" and all sub-files thereunder.
- i. All pertinent information obtained from surrendered or apprehended Weatherman fugitives showing foreign connections or influence.

All orders, directives, policy statements, or guidelines issued to or by the FBI, effective from 1950 to the present regarding investigative procedures to be followed in matters involving the national security or internal security of the United States including the installation of electronic surveillance and entries into homes, apartments, or other places.

- (13) 35. All documents showing dissemination of any or all of the documents called for in paragraph 34 above to the following offices of the FBI in which Mr. Miller served during the periods indicated:

Los Angeles, 1950-51
San Francisco, 1951-62
FBI Headquarters, 1962-66, 1969-74
Mobile, 1966
Honolulu, 1966-69
Chicago, 1969

- (14) 36. All documents showing whether or not the President of the United States or the Attorney General authorized the "Al Fatah" surreptitious entry or entries in September 1972.

PRE-INDICTMENT DELAY

- (19) 37. Reference the Attorney General's press release of 4/10/78 which stated (page 2): "In the course of the investigation, evidence was developed which indicated that the FBI, and perhaps one or more Justice Department attorneys, failed to make full disclosure of surreptitious entries...." Disclose the names and positions of the attorneys referred to, and disclose the evidence referred to, insofar as it shows knowledge of the surreptitious entries by any Department of Justice attorneys prior to 1976. This request includes but is not limited to documentary evidence and statements of witnesses interviewed.
38. Reference the above press release which stated (page 4): "Subsequent to the return of the Kearney indictment, the Department learned that a former high FBI official was prepared to testify under oath that he had personally communicated to Kearney the personal wishes of then FBI Director Hoover that any available means be utilized to catch Weatherman fugitives. This testimony, potentially of great assistance to Mr. Kearney, now is unavailable because of the official's death." Disclose all written statements and the substance of all oral statements made by former Deputy Director of the FBI, William C. Sullivan, in the possession of the government relating to the Weatherman fugitive investigation, including but not limited to all memoranda, etc. made by him while an official of the FBI and all interviews and Grand Jury testimony after his retirement (on this subject).
- (20) 39. All other documents reflecting the personal wishes of FBI Director Hoover with regard to the means to be utilized to catch Weatherman fugitives.
40. A memorandum from William Ruckelshaus, Deputy Attorney General, to Clarence M. Kelley, Director, FBI, written in approximately July 1973, believed to begin with the words "Dear Chief," which discussed, inter alia, surreptitious entries.
41. The FBI's response to the above memorandum, insofar as it pertains to surreptitious entries.
- (21) 42. All evidence showing that any Attorney General of the United States or President of the United States, while in office, learned of the utilization of the technique of surreptitious entry by FBI agents or officials, but declined to order an investigation or rejected an

Edward S. Miller

- 7 -

investigation or declined to prosecute any employees or former employees of the FBI.

SELECTIVE PROSECUTION

- (22) 43. A list of all matters or cases from 1950 to the present in which allegations or indications of violations of the Fourth Amendment by law enforcement officers came to the attention of the Department of Justice.
- (23) 44. A list of all investigations conducted by the FBI from 1950 to the present for possible violations of the Fourth Amendment by law enforcement officers.
- (24) 45. In those investigations referred to above in which a determination not to prosecute was made by the Department of Justice, all documents showing the basis for such determination.

Thomas A. Kennelly
Attorney for Edward S. Miller

Greenberg/Gray-5266

EDWARD S. MILLER

REQUEST FOR BILL OF PARTICULARS

Indictment, paragraph 7:

1. As to "the District of Columbia and elsewhere," specify the "elsewhere."
2. Give names and last known addresses of all "others to the Grand Jury known."
3. Give names and last known addresses of all the "citizens of the United States" against whom the defendants conspired.
4. Name all the "Weatherman fugitives" referred to in this paragraph.
5. Particularize the "certain rights and privileges secured to them by the constitution and laws of the United States" if other than the Fourth Amendment.

Indictment, paragraph 8:

6. Give names and last known addresses of all the "other officials and agents of the FBI" referred to in this paragraph.
7. Name all the "homes and premises of relatives and acquaintances of Weatherman fugitives" referred to in this paragraph; and name the "relatives and acquaintances" as well as the "Weatherman fugitives" if different from those referred to in paragraph 7 of the indictment.
8. If there are other surreptitious entries intended to be proof of the conspiracy alleged, in addition to those related in the Overt Acts, provide particulars as to each.

Overt Acts:

9. As to Overt Act No. 1:
 - a. What is the exact date of the conversation, to the best of the government's knowledge?
 - ~~b. At what address did the conversation take place?~~
 - c. At what time?
 - d. Who else was present?
 - e. Who, if anyone, overheard the conversation?
 - f. Describe the substance of the conversation.

Greenberg/Gray-5267

Edward S. Miller

10. As to Overt Act No. 2:

- a. Give names and last known addresses of all members of the "group of FBI officials" referred to in this Overt Act.
- b. Identify the conference by name, description, or purpose.
- c. Describe the substance of what Mr. Gray actually said as it relates to this indictment.

11. As to Overt Act No. 4:

- a. Give names and last known addresses of all members of the "group of FBI officials" referred to in this Overt Act.
- b. Identify the conference by name, description, or purpose.
- c. Describe the substance of what Mr. Gray actually said as it relates to this indictment.

12. As to Overt Act No. 5:

- a. Give names and last known addresses of the "agents attending a Weatherman in-service training course."
- b. Give name(s) and last known address(es) of the person(s) who gave the lecture.
- c. Give names and last known addresses of any other persons who heard the lecture.
- d. Describe in detail the substance of the lecture as it relates to this indictment.

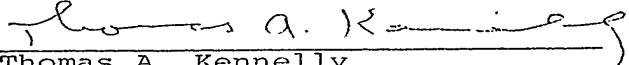
13. As to Overt Act No. 15, give names and last known addresses of all the "agents of the FBI" referred to therein.

14. As to Overt Act No. 17, give names and last known addresses of all the "agents of the FBI" referred to therein.

15. As to Overt Act No. 19, give names and last known addresses of all the "agents of the FBI" referred to therein.

16. As to Overt Act No. 21, give names and last known addresses of all the "agents of the FBI" referred to therein.

17. As to Overt Act No. 31, give names and last known addresses of all the "agents of the FBI" referred to therein.


Thomas A. Kennelly
Attorney for Edward S. Miller

LAW OFFICES

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1300 MERCANTILE BANK & TRUST BUILDING

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J. DARBY BOWMAN, JR.
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PETER H. GUNST
JOHN J. KENNY
ANN MCKENRICK TURNBULL

Gray
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ELI FRANK
1874-1958

JOSEPH BERNSTEIN
1897-1972

CYRIL R. MURPHY, JR.
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MARY KATHERINE FARM
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JANE ENNIS SHEEHAN
JEFFREY A. WYAND

COUNSEL
GEORGE GUMP

May 1, 1978

Barnet D. Skolnik, Esquire
Assistant United States Attorney
8th Floor, United States Courthouse
101 West Lombard Street
Baltimore, Maryland 21201

Re: U. S. v. Gray

Dear Mr. Skolnik:

Pursuant to our recent discussion, attached hereto is a list of those items which defendant Gray seeks to discover prior to trial of the above case. This list is being submitted to you in order to comply with local rules requiring counsel to attempt to resolve discovery matters prior to the filing of formal motions. We wish to note that if it is necessary to amend this list in any significant respect, we will advise you in advance of May 22, 1978, the date set for the filing of motions.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Very truly yours, _____

Alan I. Baron
Alan I. Baron

AIB/pr
Encl.

ENCLOSURE

Greenberg/Gray-5269

62-118045-10

7. The names and addresses of persons whom the Government intends to call as witnesses, together with any statements by such witnesses in the Government's possession, custody or control.

2. The names and addresses of such "others" as are known to the Grand Jury with whom the defendant Gray is alleged to have conspired.

4. The names and addresses of each person questioned by the Government who will not be called as a witness, together with any statements by such persons in the Government's possession, custody or control.

4. All books, papers, documents, records, photographs or other tangible objects in the possession, custody or control of the Government, including any documents or reports of F.B.I. personnel, which in any manner pertain to F.B.I. efforts or the efforts of local law enforcement agencies to apprehend Weatherman fugitives.

5. The criminal record of any witnesses to be called by the Government.

2. To state whether any person whom the Government intends to call as a witness was or is under investigation or indictment, or was or is subject to disciplinary action by an agency of the United States for any offense against the United States or of any state, or for violation of any rule or regulation of an agency of the United States. If the answer is in the affirmative, to disclose (a) the name and address of each such witness; (b) the details and circumstances of each investigation and/or indictment and/or disciplinary action; (c) as to any such investigation, indictment or disciplinary action, the details and circumstances of all promises or representations made by either the prosecutors or investigators in this case to each such witness or person acting on behalf of such witness.

7. To disclose whether any electronic eavesdropping or wire tapping was employed by the U. S. Government or any State Government or any third person with the knowledge of the U. S. Government, directly or indirectly, in the preparation and/or investigation of this case. If the answer is in the affirmative, to disclose any and all tape, wire or other recordings and/or transcriptions of such recordings or conversations in which any of the defendants and/or alleged conspirators, named and unnamed, participated

8. The fruits of any searches and/or seizures conducted in connection with the investigation of the matters alleged in the indictment, together with all warrants in support thereof, including but not limited to, items seized from F.B. I. offices in Washington, D.C. and New York City on or about August 19, 1976, which documents defendant Gray signed, approved, or which documents were allegedly prepared as a result of the conspiracy alleged in the indictment herein.

5 ~~8~~. All promises, inducements or rewards given by the Government to any person whom it intends to call as a witness.

10. All threats of indictment or the institution of disciplinary action made by the Government to any person in connection with the investigation and/or prosecution of this case.

41 ~~11~~. All books, papers, records, recordings, documents, photographs or other tangible objects in the possession, custody or control of the Government which directly or indirectly reflect involvement or collaboration by the Weatherman Organization or its members with any foreign power, or with any agent of a foreign power.

26 ~~12~~. If, during the period 1960 to the present, the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their designated agents authorized (a) warrantless wire interceptions of persons believed to be members of the Weatherman Organization; or (b) the planting and/or retrieval of microphones on premises believed to be occupied by members of the Weatherman Organization without a warrant; or (c) warrantless surreptitious entries on premises believed to be occupied by members of the Weatherman Organization or their sympathizers, produce all books, records, documents, recordings, photographs or other tangible objects which reflect such authorizations.

27 ~~13~~. If, during the period 1960 to the present, the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their designated agents ever withdrew authority for (a) warrantless wire interceptions of persons believed to be members of the Weatherman Organization; (b) the planting and/or retrieval of microphones on premises believed to be occupied by members of the Weatherman Organization without a warrant; or (c) warrantless surreptitious entries on premises believed to be occupied by members of the Weatherman Organization or their sympathizers, produce all books, records, recordings, documents, photographs or other tangible objects which reflect withdrawal of such authorization.

28 ~~14~~. If the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their designated agents ever authorized the F.B.I. to use surreptitious entries without a warrant; installation and/or retrieval of microphones without a warrant; installation of wrietaps without a warrant; the opening of mail without a warrant, as investigative techniques, produce all books, records, recordings, photographs, documents or other tangible objects which reflect the authorization to use such investigative techniques.

29 ~~15~~. If the President of the United States, the Attorney General of the United States, the Director of the F.B.I. or their designated agents ever withdrew authority from the F.B.I. to use surreptitious entries without a warrant; installation and/or retrieval

of microphones without a warrant; installation of wiretaps without a warrant; or the opening of mail without a warrant, as investigative techniques, produce all books, records, recordings, photographs, documents or other tangible objects which reflect removal of the authorization to use such investigative techniques.

12 16. All books, papers, records, documents, photographs, or other tangible objects in the custody or control of the Government which reflect that F.B.I. agents engaged in warrantless surveillance techniques from the period January 1, 1960 to the present.

17. Provide a copy of the memorandum purportedly issued by F.B.I. director Hoover in 1966-67 directing agents to halt warrantless entries.

10 18. All books, papers, records, documents, photographs or other tangible objects in the custody or control of the Government which reflect that any person or persons in the Department of Justice, other than members of the F.B.I., were aware of the use of warrantless surveillance techniques by the F.B.I. from the period January 1, 1960 to the present.

21 19. All prosecutive reports from F.B.I. agents to federal prosecutors prepared during the period January 1, 1960 to the present which reflect that F.B.I. agents engaged in warrantless surveillance techniques.

20. All books, papers, records, documents, photographs or other tangible objects in the possession, custody or control of the Government pertaining to the creation of Squad 47 in New York Field Office, all of the records of the activities of such Squad 47 from January 1, 1960 to the present.

30 21. All books, papers, records, documents, photographs, or other tangible objects in the possession, custody or control of the Government, which pertain to the creation and function of the Cabinet Committee on Terrorism and any contact between that Committee and any representative of the F.B.I., including but not limited to the defendant, Gray.

22. All books, papers, records, notes, recordings, documents, photographs or other tangible objects in the Government's possession, custody or control, emanating from or directed to the defendant Gray and which pertain to the Weatherman Organization, in-service classes pertaining to Weathermen, studies of Weatherman Organization, or any foreign or domestic terrorist group operating or attempting to operate in the United States.

23. All books, papers, records, notes, recordings, documents or other tangible objects regarding the visit of defendant Gray to the National Security Agency on or about August 30, 1972.

24. All books, records, notes, recordings, documents or other tangible objects in the Government's possession, custody or control which pertain to meetings between defendant, Gray and the President's Foreign Intelligence Advisory Board on or about June 1, 1972 and August 2, 1972, including but not limited to any notes or other records made by any member of said Board or by members of their staff.

18 25. All books, papers, records, recordings, photographs, documents and other tangible objects in the Government's possession, custody or control which reflect contact between the President's Foreign Intelligence Advisory Board, or members of the Board staff, and the F.B.I., particularly the Domestic Intelligence Division of the F.B.I.

8 26. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control which reveal the content of the conversation alleged to have taken place in August, 1972, between Mr. Gray and Mr. Miller, as set forth in the first overt act of the indictment.

9 27. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control which reveal the content of the statement allegedly made by Mr. Gray on September 12, 1972, as set forth in the second overt act in the indictment.

28. All books, records, notes, documents, photographs or other tangible objects in the Government's possession, custody or control which reflect the content of the Weatherman in-service training course held from October 2, 1972 to October 6, 1972, referred to in the third and fifth overt acts in the indictment.

29. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control which reveal the content of the statement allegedly made by Mr. Gray on September 26, 1972 as set forth in the fourth overt act of the indictment.

30. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control issued by Mr. Gray during his tenure as Acting Director advising F.B.I. personnel that breach of the law or F.B.I. regulations by agents would not be tolerated.

6 31. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control reflecting efforts taken during Mr. Gray's tenure to ensure that the F.B.I. operated within the confines of the Keith decision.

32. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control regarding efforts to apprehend Arab terrorists operating or attempting to operate in the United States during Mr. Gray's tenure.

33. Studies conducted by the Domestic Intelligence Division of the F.B.I. regarding F.B.I. jurisdiction in the intelligence field.

34. Transcript of meeting between defendant Gray and SAC Grappe in August, 1972.

35. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control of meetings between defendant Gray and any SACs at F.B.I. headquarters.

36. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control regarding Weathermen, and crimes alleged members of Weatherman were charged with.

37. All books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control reflecting the authority of each person who was present in any grand jury room during proceedings leading to this indictment to be present in such grand jury room.

38. If any evidence presented to the grand jury which handed down the indictment was originally presented to any other grand jury, produce all books, records, notes, documents, photographs, or other tangible objects in the Government's possession, custody or control which purported to authorize the transfer to the indicting grand jury, evidence received by any grand jury other than the grand jury which handed down the indictment.

39. A copy of the directives or orders in February 1973 which redesignated the "Domestic Intelligence Division as the Intelligence Division of the FBI.

40. The complete criminal record of all Weatherman fugitives referred to in paragraph 5 of the indictment, together with copies of the pertinent fugitive warrants and supporting affidavits.

41. All FBI directives or memoranda generally authorizing the utilization of undercover FBI agents in Weatherman investigations and generally describing the training of such undercover agents.

42. Relevant written or recorded statements, including Grand Jury minutes of relevant testimony of persons intended to be called as witnesses at trial.

~~10~~ 43. All written statements and the substance of all oral statements made by any other co-conspirators during the course of the conspiracy which the Government intends to offer in evidence at trial against this defendant.

~~11~~ 44. All written statements and the substance of all oral statements made prior to or after the conspiracy by co-defendants which the Government intends to offer in evidence at trial.

45. All FBI documents reflecting the purpose of, reasons for, and anticipated results of the surreptitious entries referred to in the indictment.

46. All information in the FBI files which shows that the "relatives and acquaintances of Weatherman fugitives" referred to in the indictment had contact with, supported, aided, abetted, or in any way assisted said Weatherman fugitives.

47. A document entitled "POSITION PAPER ON JURISDICTION, 2/13/75, FBI Intelligence Division," together with all supporting papers.

48. A document entitled "An Analysis of FBI Domestic Security Intelligence Investigations: Authority, Official Attitudes, and Activities in Historical Perspective, 10/28/75," together with all supporting papers.

49. All documents issued by the President of the United States or any agency of the Government, effective since 1950 to the present, which define, describe, or explain the term "surreptitious entry."

50. All orders, directives, policy statements, or guidelines, issued to or by the FBI regarding the "technique of surreptitious entry," effective 1960 to the present, including but not limited to:

- a. Such documents which describe under what circumstances surreptitious entries are legal and under what circumstances they are illegal.
- b. Such documents which describe what prior approval is required for utilization of the technique of surreptitious entry.
- c. The so-called "Hoover memos" of 1966 and 1967.

51. All FBI records and all records in the possession of the Government, showing that special agents of the FBI conducted surreptitious entries from 1960 through 1974, including documentation showing whether or not such surreptitious entries were approved by the President of the United States, the Attorney General, the Director of the FBI, other Government official, or a court order.

*Memoirs
Dates* 19 52. All communications from FBI Headquarters to the Departments of Justice or other Government agencies prepared from 1960 through 1974 which reveal, either directly or by interpretation of FBI code symbols or other nomenclature, that special agents of the FBI conducted surreptitious entries.

31 53. All documents and memoranda prepared by the White House, Department of Defense, CIA, Department of Treasury, Department of State, NSA, Department of Justice, and the FBI concerning plans to deal with the Weatherman Underground Organization and other terrorists groups from 1969 through 1974, including but not limited to the so-called "Huston Report" in 1970 or 1971.

32 54. All documents showing communication between the White House and the Department of Justice, and the White House and the FBI, concerning plans and investigative methods to deal with the Weatherman Underground Organization and other terrorists groups from 1969 through 1974, including but not limited to:

- a. a memorandum prepared in the early 1970's by Mr. FBI liaison to the White House, which related a conversation with Mr. Egil Krogh, the substance of which was that Mr. Krogh stated that President Nixon wanted the FBI to use all means possible to stop terrorist activities.

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b7C

33 55. Those portions of all tapes and transcripts of White House conversations in which the Weatherman Underground Organization and/or other terrorist groups were discussed, during the period from January 20, 1969 through May 31, 1973.

34 56. All documents, including reports and statements of persons interviewed, which indicate that there was an absence of approval

by authorities higher than these defendants of the surreptitious entries alleged in the indictment, or that said higher authorities disapproved such surreptitious entries.

40 51. Documents prepared by a joint Department of Justice/FBI committee known as the "Department Review Committee" which reflect that on or about April 8, 1976 and again on or about August 31, 1976, said Committee designated the Weatherman investigation as a national security matter.

42 58. All other documents which reflect that the Weatherman Underground Organization was ever classified by any government agency or committee as a national security threat or a threat to the internal security of the United States.

43 59. All documents in the possession of the Department of Justice, the FBI, DOD, CIA, NSA, Department of Treasury, and State Department which show that members of the Weatherman Underground Organization had connections with foreign countries, traveled to or from foreign countries, sent or received communications to or from foreign countries, or received financial or other assistance from foreign countries. Such documents include but are not limited to pertinent documents from the following sources:

- a. The so-called "Chicago Report"; more specifically, a report compiled by the Chicago office of the FBI detailing the relationship of members of the Weatherman organization and foreign governments or agents.
- b. Any electronic surveillance which discloses the information requested in this paragraph including electronic surveillance of one [redacted] a Weatherman member, which indicates contact with the government of North Vietnam. b6
b7C
- c. Internal documents of the Weatherman organization including all copies of the possession of the government of the publication "Osawatomie," the Weatherman periodical. b7D
- d. Any and all reports of foreign law enforcement or governmental agencies including but not limited to [redacted]
- e. Documents in FBI files showing communications between the Weatherman organization, SDS, the "Venceremos Brigade," and the Cuban Mission to the United Nations.

- f. Pertinent documents from FBI files designated as "109-12" (foreign political matters) and all sub-files thereunder.
- g. Pertinent documents from FBI files designated as "66-1686" (the "June file").
- h. Pertinent documents from FBI files described as "Foreign Influence in the New Left" and all sub-files thereunder.
- i. All pertinent information obtained from surrendered or apprehended Weatherman fugitives showing foreign connections or influence.

~~38~~ 60. All orders, directives, policy statements, or guidelines issued to or by the FBI, effective from 1950 to the present regarding investigative procedures to be followed in matters involving the national security or internal security of the United States including the installation of electronic surveillance and entries into homes, apartments, or other places.

~~35~~ 61. All documents showing whether or not the President of the United States or the Attorney General authorized the "Al Fatah" surreptitious entry or entries in September 1972.

~~48~~ 62. Reference the Attorney General's press release of 4/10/78 which stated (page 2): "In the course of the investigation, evidence was developed which indicated that the FBI, and perhaps one or more Justice Department attorneys, failed to make full disclosure of surreptitious entries...." Disclose the names and positions of the attorneys referred to, and disclose the evidence referred to, insofar as it shows knowledge of the surreptitious entries by any Department of Justice attorneys prior to 1976. This request includes but is not limited to documentary evidence and statements of witnesses interviewed.

63. Reference the above press release which stated (page 4): "Subsequent to the return of the Kearney indictment, the Department learned that a former high FBI official was prepared to testify under oath that he had personally communicated to Kearney the personal wishes of then FBI Director Hoover that any available means be utilized to catch Weatherman fugitives. This testimony, potentially of great assistance to Mr. Kearney, now is unavailable because of the official's death." Disclose all written statements and the substance of all oral statements made by former Deputy Director of the FBI, William C. Sullivan, in the possession of the government relating to the Weatherman fugitive investigation, including but not limited to all memoranda, etc. made by him while an official of the FBI and all interviews and Grand Jury testimony after his retirement (on this subject).

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64. All other documents reflecting the personal wishes of FBI Director Hoover with regard to the means to be utilized to catch Weatherman fugitives.

65. A memorandum from William Ruckelshaus, Deputy Attorney General, to Clarence M. Kelley, Director, FBI, written in approximately July 1973, believed to begin with the words "Dear Chief," which discussed, inter alia, surreptitious entries.

66. The FBI's response to the above memorandum, insofar as it pertains to surreptitious entries.

67. All evidence showing that any Attorney General of the United States or President of the United States, while in office, learned of the utilization of the technique of surreptitious entry by FBI agents or officials, but declined to order an investigation or rejected an investigation or declined to prosecute any employees or former employees of the FBI.

22 68. A list of all matters or cases from 1950 to the present in which allegations or indications of violations of the Fourth Amendment by law enforcement officers came to the attention of the Department of Justice.

23 69. A list of all investigations conducted by the FBI from 1950 to the present for possible violations of the Fourth Amendment by law enforcement officers.

70. In those investigations referred to above in which a determination not to prosecute was made by the Department of Justice, all documents showing the basis for such determination.

71. All books, papers, records, documents, photographs, and other tangible objects in the government's possession, custody, or control which were issued by Mr. Gray, received by Mr. Gray, or prepared at Mr. Gray's request and which deal in any way with the Weatherman Organization, or the abandonment or resumption of intelligence and/or counterintelligence by the FBI, or within the scope of the FBI's jurisdiction in the intelligence or counterintelligence field.

15 72. All FBI documents marked either "June" and/or "Do Not File" from the period January 1, 1960, to the present.

16 73. All FBI Headquarters Inspection Division reports and inspector's worksheets of inspections conducted by the FBI Headquarters Inspection Division of the New York Field Office, the Washington Field Office, and any other field office in which the Weatherman Organization, or any member thereof, was the subject of an investigation, or in which efforts of any kind were made by special agents of the FBI to locate and apprehend fugitive members of the Weatherman Organization for the period January 1, 1960, to the present.

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May 1, 1978

Barnet D. Skolnik
Department of Justice
Constitution Avenue
Washington, D.C. 20530

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Re: United States of America v.
L. Patrick Gray, et al

Dear Mr. Skolnik:

In accordance with our conference of April 25, I am
acknowledging receipt of the following:

1. Grand Jury Testimony. b3
2. Internal F.B.I. Memoranda relating to
the Weatherman activities.
3. Memoranda from Edward S. Miller to W. Mark Felt.
4. SAC Memoranda from the New York Field Office
relating to results of entries by F.B.I. agents.
5. Dissemination Memoranda from the New York Field
Office.
6. Copy of L. Patrick Gray's hand written notes from
a September 1972 conference.

It is my understanding that I will receive reproductions
of photographs which were fruits of the surreptitious entries
recited in the indictment. Additionally, many of the Xerox
copies provided us are barely legible and I should like to
have access to the originals.

I would like to take this opportunity to make an informal
discovery request pursuant to the local rules of the United

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States District Court. In addition to material of a general nature, I would like to request any material or information which tend to support motions to dismiss for either pre-indictment delay or selective prosecution and also, any evidence which tends to support the view that the Weatherman organization constituted a national security threat justifying the use of entries as described in the indictment.

General Discovery Requests

- (B.2) 1. Please furnish the names and addresses of persons whom the government intends to call as witnesses, together with their relevant written and recorded statements.
- (B.3) 2. Please furnish the names and addresses of each person questioned by the government and any cooperating local law enforcement agencies and the report and notes from any such interviews.
3. Please furnish any books, papers, documents, records, photographs and all tangible objects which the government intends to use at trial which have not already been provided.
- (A.7) 4. Please furnish any report or statements of experts.
5. Please furnish the complete criminal records of all persons whom the government intends to call or at this time contemplates may be called as witnesses.
- 9 6. Please provide access to inspect and copy all items seized from the offices of the F.B.I. in Washington, D.C. and New York City on or about August 19, 1976..
- B.(4) 7. Please indicate all promises, inducements and rewards given by the government to any person that the government intends to call as a witness at trial.
8. Please make available all information of whatever form which is favorable to the Defendant, W. Mark Felt, or tends to exculpate him either through an indication of his innocence or through the potential impeachment of a co-conspirator or potential government witness, and any information or source which may lead to evidence which is favorable to the Defendant.

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(C.2) 9. Please list all present and former members of the Weatherman organization, and last known address and state, whether they are under indictment; or have been acquitted of charges related to their alleged activities as members of the Weatherman organization.

10. With reference to the persons referred to in the indictment, please state their full names, last known address, their relationship or association with members of the Weatherman organization, whether they have been indicted and result of the indictment, and any information that they had contact with, supported, aided, or in any way assisted members of the Weatherman organization.

(C.2) 11. Please list by date and describe all criminal acts the government believes were committed by members of the Weatherman organization or its predecessor organization or allied groups, and the members believed to be involved and their last known addresses.

12. Please provide any correspondence by the Justice Department to any Congressional committee or organization relating to the enforcement of Section 241 of Title 18 of the United States Code.

Pre-Indictment Delay

(E.1) 1. Please state the first date any employee of the Department of Justice learned that the Defendant had ordered any of his assistants to use warrantless entries in the F.B.I. investigation of the Weatherman organization and state the name and addresses of any such person or persons.

(E.2) 2. Please state how long any employee of the Department of Justice knew and had reasonable grounds to believe that surreptitious entries were being used in the Weatherman investigations before a decision was made by the Department of Justice to conduct a full scale investigation of the activities mentioned in the indictment.

May 1, 1978

3. Please state the name and current address of any Attorney General of the United States or President of the United States who learned of F.B.I. techniques of surreptitious entry while in office, but who either did not order an investigation or rejected an investigation or declined to prosecute any agents of the F.B.I.

4. Please provide any facts which would tend to support the Defendant's claim that he was prejudiced by pre-indictment delay.

Selective Prosecution

1. Did the Department of Justice conduct an investigation into warrantless mail openings, entries or electronic surveillance by members of the C.I.A. or any other government agency. If so, was a decision reached to prosecute any members of these agencies?

2. Has any Attorney General decided not to prosecute the Defendant or postpone a prosecutorial decision concerning the acts alleged in the indictment. If so, please indicate when that decision was made and produce any documents detailing reasons for same.

National Security Defense

1. I would like to have access for inspection and copying any information to support the proposition that the Weatherman organization constituted a national security threat justifying the use of surreptitious entries. This should include any and all evidence which supports the view that members of the Weatherman organization had contact with or received support from any hostile foreign government or representatives of hostile foreign governments or persons supporting the aims of any hostile foreign governments.

2. I would like to inspect any documents relating to any and all wiretapes and electronic surveillance conducted by any government agency in investigations of Weatherman activities.

3. Please provide all interviews, memorandum or tapes prepared by or for President Nixon, Attorney General Mitchell or any other member of the White House staff concerning Weatherman activities.

- (F.8.) 4. Please provide a copy of the so called "Chicago report."
5. I would like access for inspection and copying any internal documents of the Weatherman organization.
6. I understand from our April 25 conference that you will provide for me a copy of the publication, Osawatomie.
7. Please provide any and all reports of any government agency including but not limited to the F.B.I. and C.I.A. relating to Weatherman activities with the exception of those which I have already been provided.
8. Please provide any and all reports of foreign law enforcement or government agencies relating to the Weatherman organization.
9. Please provide any documents which indicate whether or not the Weatherman organization was classified by any government agency or committee as a National Security Threat or a threat to the Internal Security of the United States.
- (C.4) 10. Please provide documents or names and addresses of any potential government witnesses or any government informant who could support the proposition that members of the Weatherman organization had contact with or received support from any hostile foreign government or representatives of any hostile foreign government or persons supporting the aims of any hostile foreign government.
11. Please provide any and all Orders, Memorandums, Testimony or other documents issued within the last 38 years by any President of the United States, his designated representative, any director of the F.B.I., C.I.A. or predecessor organization dealing with the procedures or guidelines to be followed in matters involving the national security or internal security of the United States.
12. Please state the date, time and provide documents relating to any other and all warrantless entries ordered by the Defendant or F.B.I. officials on behalf of the Department of Justice
13. Provide documents relating to any new guidelines sent to the F.B.I. relating to investigative techniques in intelligence gathering.

Barnet D. Skoinik
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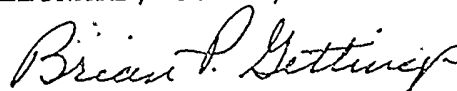
Inasmuch as the first paragraph of this letter was drafted last week and you have since retrieved several documents from us, the enumerated acknowledgment in that paragraph must be limited, at this time, to reflect that fact. You know what you retrieved and presently I do not.

Please be advised that, due to the press of time and some other business, this request is not quite complete. I anticipate that my additional requests will be completed and in your hands within a few days.

I certainly appreciate your cooperation with regard to the above mentioned discovery requests relating to this case.

Sincerely,

LEONARD, COHEN, GETTINGS & SHER



BRIAN P. GETTINGS

MDC/BPG:jet



UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

May 10, 1978

Address Reply to the
Division Indicated
and Refer to Initials and Number

BDS:FJM:ams

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Alan I. Baron, Esquire
Brian P. Gettings, Esquire
Thomas A. Kennelly, Esquire

Re: United States v. Gray, et al

Dear Sirs:

The following constitutes the Government's response to the various defense requests for non-Rule 16 discovery in this case, as set forth in your three respective letters of May 1, 1978. As a review of this letter will make clear, we have made every effort to agree to your requests even where, as is often the case, we believe the request to be insupportable as a matter of law. We want to avoid extended litigation in this case--we choose rather to accommodate you wherever possible so that we can get on with trying the case at the earliest reasonable date. Only where a discovery request is in our judgment truly unreasonable have we declined to agree.

With regard to the massive quantities of material which we herein agree to discover to you, you will shortly receive a list of those materials that are presently available for your immediate review. You will be notified as other materials become available for that purpose. Of course, as to all material, the government retains the right suitably to redact the material so as to protect on-going investigations and to prevent undue embarrassment or injury to unrelated third parties. As to all discovery herein agreed to, the phrase "to the extent known to Government counsel" should be understood to modify all of our discovery undertakings.

Requests Made by Defendant Gray:

1. All Jencks and Brady material (if any) will be turned over 30 days before trial.
2. A list of the known unindicted coconspirators will be provided as particulars at the appropriate time.

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3. This material will not be provided as such.
However, Brady material (if any) will be turned over 30 days before trial.

4. The Government will make available the FBI files on the Weatherman. This will consist of Weatherman files (including control files) maintained at FBI headquarters, the New York Field Office and the Newark Field Office, as well as FBI materials relating to Weatherman that have been found in other than Weatherman files. All such material will be made available for the period from the inception of the Weather Underground Organization (1969) to June 30, 1974. That date, which is thirteen months after the closing date of the conspiracy as charged in the indictment, is the date on which the last of the present defendants, Mr. Miller, retired from the FBI.

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5. This material will be provided.

6. Brady material (if any) will be turned over 30 days before trial.

7. The answer is negative.

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8. This material, to the extent it is relevant to the Weatherman investigation and is still available, will be provided.

9. Brady material, (if any) will be turned over 30 days before trial.

10. Brady material, (if any) will be turned over 30 days before trial.

11. This request is denied as irrelevant.

12. This material will be provided to the extent *McShane* indicated in ¶4 above.

13. This material will be provided to the extent indicated in ¶4 above. Also, additional material will be provided concerning the FBI's response to the Keith decision. *McShane*

14. This request is overbroad. However, certain *McShane* material will be provided to the extent indicated in ¶4 above.

15. This request is overbroad. However, certain *McShane* material will be provided to the extent indicated in ¶4 above.

16. This request is overbroad. However, certain *McShane* material will be provided to the extent indicated in ¶4 above.

17. These memoranda will be provided. *Boths*

18. Relevant material will be provided to the extent indicated in ¶4 above. *McShane*

19. Relevant material will be provided to the extent indicated in ¶4 above.

20. This material will be provided to the extent indicated in ¶4 above.

21. All such documents in FBI files which indicate that they were seen by defendant Gray will be provided.

22. All such documents relating to the Weatherman investigation have either already been provided as Rule 16 discovery or will be provided to the extent indicated in ¶4 above. The request is otherwise overbroad. *Potts*

23. Any such material will be provided. *Potts*

24. Any such material will be provided. *Potts*

25. This request is denied as overbroad.

26. Rule 16 material has been provided. Jencks material will be provided 30 days before trial.

27. Jencks material will be provided 30 days before trial.

28. Any such material will be provided. *Potts*

29. Jencks material will be provided 30 days before trial.

30. Any such material will be provided. *Brady*

31. This material will be provided to the extent indicated in ¶13 above.

32. This request is denied as overbroad.

33. The last such study prior to the 1969 formation of the Weatherman, and any additional studies up to June 30, 1974, will be provided. *Cavanaugh*

34. Any such material will be provided.

35. Any such material relating to organized SAC conferences will be provided.

b6
b7C

36. This material will be provided to the extent indicated in ¶4 above.

37. This material will be provided. [redacted]

b6
b7C

38. Three grand juries have had a part in the investigation of the subject matter of this case. An August 1976 Southern District of New York grand jury heard evidence concerning the subject matter. No materials (i.e., subpoenaed documents or testimony) from that grand jury were presented to the April 1977 District of Columbia grand jury which indicted this case. In the fall of 1976 a regular grand jury in the District of Columbia took testimony from several witnesses, including [redacted]

b3

The testimony before that grand jury of [redacted] was later read to the April 1977 grand jury that ultimately indicted the case. You have already received a copy of the transcript of the reading of that testimony. No other testimony or evidence was transferred to the indicting grand jury. No Court order was obtained (as none was necessary).

39. Any such material will be provided.

40. This material will be provided to the extent indicated in ¶4 above. [redacted]

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b7C

41. This material will be provided to the extent *with* indicated in ¶4 above.

42. Jencks material will be provided 30 days before trial.

43. Jencks material will be provided 30 days before trial.

44. Jencks material will be provided 30 days before trial.

b6
b7C

45. This material will be provided to the extent indicated in ¶4 above. [redacted]

46. This material will be provided to the extent indicated in ¶4 above. [redacted]

47. This request is denied as irrelevant to the events of 1972-73.

b6
b7C

48. This request is denied as irrelevant to the events of 1972-73.

49. This request is denied.

50. Any such orders, directives, etc., issued prior to June 30, 1974 and concerning domestic matters will be provided.

51. This request is denied, except to the extent indicated in ¶4 above. [redacted]

b6
b7C

52. This request is denied, except to the extent indicated in ¶4 above.

b6
b7C

53. The "Huston Report" will be provided. The request is otherwise overbroad and is denied, except to the extent indicated in ¶4 above.

b6
b7C

54. The Haynes memo will be provided. To the extent the request seeks information concerning "other terrorist groups" it is denied as overbroad. To the extent the request seeks FBI documents concerning the Weatherman, this material will be provided to the extent indicated in ¶4 above. An appropriate search will be instituted for any similar documents in Department of Justice files.

b6
b7C

55. This request is denied as overbroad. However, any known White House tape recordings of any defendant in this case will be made available.

56. This request is denied.

57. This request is denied as irrelevant to the events of 1972-73.

58. This request is denied as irrelevant, except to the extent indicated in ¶4 above.

b6
b7C

59. This request is denied as irrelevant.

60. This request is denied as overbroad.

61. This request is denied as irrelevant.

62. This request is denied as irrelevant.

63. Any communication between [redacted] and the government during the investigation of this case, including any relevant grand jury testimony or notes of interview of [redacted] will be provided. Memoranda, etc., made by Mr. [redacted] will be provided to the extent indicated in ¶4 above.

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64. No such documentation is known to Government counsel.

65. This memorandum will be provided.

66. This memorandum will be provided.

67. Any such material will be provided.

68. This request is denied.

69. This request is denied.

70. This request is denied.

71. Rule 16 material has been provided. Beyond that, the request is denied, except to the extent indicated in ¶4 above.

72. This request is denied as overbroad.

73. This request is denied as irrelevant.

Requests Made by Defendant Felt:

"General Discovery Requests"

1. Jencks material will be provided 30 days before trial. *Jencks*

2. Jencks and Brady material (if any) will be provided 30 days before trial.

3. Rule 16 material has already been provided.

4. Any such material will be provided.

5. Jencks and Brady material (if any) will be turned over 30 days before trial.

6. This material, to the extent it is relevant to the Weatherman investigation and is still available, will be provided.

7. Brady material will be turned over 30 days before trial.

8. Brady material will be turned over 30 days before trial.

9. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

10. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

11. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

12. This request is denied.

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b7C

b6
b7C

b6
b7C

b6
b7C

"Pre-Indictment Delay"

1. The fact in question was first learned during the course of the investigation which led to the present indictment.

2. Such knowledge was first acquired during the investigation which led to the present indictment.

3. Any such material known to Government counsel will be provided.

4. There was no pre-indictment delay.

"Selective Prosecution"

1. The January 1977 press release on the CIA mail-opening investigation will be provided.

2. The answer is negative.


"National Security Defense"

1. This request is denied as irrelevant.


2. This material will be provided to the extent indicated in ¶4 (Gray's requests) above. *mc Shane*

3. This request is denied as unclear.

4. This request is denied as irrelevant.

5. This material will be provided to the extent indicated in ¶4 (Gray's requests) above. 

6. This material will be provided.

7. This material will be provided to the extent indicated in ¶4 (Gray's requests) above. 

8. This request is denied as irrelevant.

9. This request is denied as irrelevant.

10. This request is denied as irrelevant.

11. This request is denied as overbroad.

b6
b7C

b6
b7C

12. This request is denied, except to the extent indicated in ¶4 (Gray's requests) above.

b6
b7C

13. This request for "new guidelines" is denied as irrelevant to the events of 1972-73.

Requests Made by Defendant Miller:*

1. This material will be provided.

2. Any such material will be provided.

b6
b7C

3. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

4. Brady material (if any) will be turned over 30 days before trial.

5. This material will be provided for the period from the inception of the Weather Underground Organization (1969) to the date of defendant Miller's retirement (June 30, 1974).

6. This file will be provided.

7. Jencks and Brady material (if any) will be turned over 30 days before trial.

8. Jencks material will be turned over 30 days before trial.

9. Brady material (if any) will be turned over 30 days before trial.

10. Rule 16 material has already been provided.

11. Rule 16 material has already been provided. Jencks material will be turned over 30 days before trial.

12. Rule 16 material has already been provided. Jencks material will be turned over 30 days before trial.

b6
b7C

13. This material will be provided to the extent indicated in ¶4 (Gray's requests) above.

*Only the Discovery Requests submitted by counsel for defendant Miller are being responded to herein. The "Request for Bill of Particulars" will be responded to later.

14. Brady material (if any) will be turned over 30 days before trial.

15. Jencks and Brady material (if any) will be turned over 30 days before trial.

b6
b7C

16. This material will be provided to the extent indicated in ¶4 (Gray's requests) above. [redacted]

17. This request is denied as irrelevant to the events of 1972-73.

18. This request is denied as irrelevant to the events of 1972-73.

19. This request is denied.

20. Any such orders, directives, etc., issued prior to June 30, 1974 and concerning domestic matters will be provided.

21. Any known such dissemination of the materials provided under ¶20 above will also be provided.

b6
b7C

22. This request is denied, except to the extent indicated in ¶4 (Gray's requests) above. [redacted]

23. This request is denied, except to the extent indicated in ¶4 (Gray's requests) above. [redacted]

b6
b7C

24. This request is denied, except to the extent indicated in ¶4 (Gray's requests) above. [redacted]

b6
b7C

25. No such documents are known to Government counsel.

26. The "Huston Report" will be provided. The request is otherwise overbroad and is denied, except to the extent indicated in ¶4 (Gray's requests) above. [redacted]

b6
b7C

27. The Haynes memo will be provided. To the extent the request seeks information concerning "other terrorist groups" it is denied as overbroad. To the extent the request seeks FBI documents concerning the Weatherman, this material will be provided to the extent indicated in ¶4 (Gray's requests) above. An appropriate search will be instituted for any similar documents in Department of Justice files. [redacted]

b6
b7C

28. This request is denied as overbroad. However, any known White House tape recordings of any defendant in this case will be made available.

29. This request is denied.
30. This request is denied.
31. This request is denied as irrelevant to the events of 1972-73.
32. This request is denied as irrelevant, except to the extent indicated in ¶4 (Gray's requests) above.
33. This request is denied as irrelevant.
34. This request is denied as overbroad.
35. This request is denied as overbroad.
36. This request is denied as irrelevant.
37. This request is denied as irrelevant.
38. Any communication between [redacted] and the government during the investigation of this case, including any relevant grand jury testimony or notes of interview of Mr. [redacted] will be provided. Memoranda, etc., made by Mr. [redacted] will be provided to the extent indicated in ¶4 (Gray's requests) above.
39. No such documentation is known to Government counsel.
40. This memorandum will be provided.
41. This memorandum will be provided.
42. Any such material will be provided.
43. This request is denied as overbroad.
44. This request is denied as overbroad.
45. This request is denied as overbroad.

b6
b7C

b3

Very truly yours,

Barnet D. Skolnik
Special Counsel
Department of Justice

TO : Mr. *Deery*
FROM : *W. L. Tierney*
SUBJECT: *L. Patrick III*
U. S. v. *GRAY* et al
DISCOVERY

DATE: 5-10-78

11
21
On May 9, 1978, Frank Martin, Department of Justice, Task Force, discussed Discovery and issues previously raised with him May 4, 1978.

Martin is interested in having the Bureau make further excisions, beyond those authorized during Discovery, on documents which the prosecution intends to use at trial. Excisions would be made with a view towards arriving at an unclassified copy which could be introduced in evidence in court. The defense may be interested in a similar *them* arrangement. He was advised we could accommodate *him* on a limited basis, but not a wholesale basis. *He does not want to start this now*

Martin is interested in having the copies of documents now in his hands, which have been excised according to Discovery standards, reviewed to determine whether the redactions had any effect on the classification of the redacted copy ie: causing the copy to be downgraded or declassified. He is not prepared to start this operation in the immediate future, however.

Martin will review, hopefully by the end of this week, the bulky exhibit folders. He will retain only those la envelopes which relate to the prosecution and will return unrelated la envelopes. This will avoid classification and source protection problems which are particularly difficult when applied to exhibits such as photographs taken by or including Bureau informants or undercover Agents.

Martin agreed to furnish a restatement of the original documents which his office has requested for use during trial. Original documents, thus far, have been requested on a series of occasions by memorandum, handwritten note, telephone call, and the circling of serial numbers on lists which were prepared for other purposes.

545
JLT:dmd

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DATE 04-09-2009 BY 65179 dmh/baw/sbs

REC-110
62-118045-11
14 AUG 31 1978

Greenberg/Gray-5296

8 4 SEP 14 1978

U. S. v. GRAY et al
DISCOVERY

Martin agreed, also, that the request to furnish the originals and unrecorded copies of documents should be reconsidered and was no longer necessary for FBIHQ files.

Martin explained that he was interested in keeping three separate lists of Discovery material: 1. Material processed and made available for Discovery, 2. Processed material reviewed by the defense, and 3. Unprocessed material of which copies are requested by the defense.

It was suggested to him that the easiest way to comply with number 3 above would be to furnish him with copies requested by the defense. In this connection, it was pointed out to him that there would be a considerable administrative saving if each of the three defense camps would agree to accept a single package of copies of documents. Martin agreed this to be advantageous but pointed out differences in defense camps might preclude defense attorneys from agreeing to this. Because of the benefit involved, particularly reduced recordkeeping, it will be explored by him.

Martin was advised the Branigan memorandum had been referred for consultation with NSA and the teletype involving the Middle East - Dallas situation has been referred to CIA. He asked if this had already been done and stated he felt the Department might prefer to refer these documents, themselves, in order to point out the Department's interests. He was advised, not only had the referral already been made, but that FBI documents should be referred by the FBI and the entire situation was explained in the referral letters to both agencies. He asked if he could have copies of the referral letters and was told that he could. He acknowledged that the Department could also correspond separately to NSA and CIA regarding the referrals, if it cared to.

*Recorded since prior instructions were
to some extent rescinded.*

~~CONFIDENTIAL~~

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-27-2009

Director, National Security Agency
Attention: General Counsel
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6628, JEN

5-9-78

BY LIAISON

U. S. v. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

(U) Attached is a copy of relevant portions of an internal FBI memorandum from W. A. Branigan to F. S. Miller dated May 31, 1972, and captioned "Major Intelligence Programs." The memorandum is classified "TOP SECRET - UMBRA." Also attached is an excised copy of this memorandum. Excisions have been made with a view toward removing all classified material from the copy. Until we receive your final approval or your concurrence with this evaluation; however, we have marked the excised version as "CONFIDENTIAL" as a precautionary measure. ~~(S)~~

(U) The office handling prosecution in captioned case desires to use the attached document at trial. A classification review to insure current compliance with the provisions of Executive Order 11652 is, therefore, required. Preliminary review by FBI personnel has resulted in the conclusion, the document should be classified "TOP SECRET - UMBRA" since it involves general policy and past history of efforts by FBI to secure material for use by your agency. The material was obtained through live sources as well as other investigative techniques, as set forth in the document. ~~(S)~~

(U) Since this is a document which is especially critical to the prosecution's case, they are most interested in having the document declassified or downgraded, or to isolate within paragraphs the specific material resulting in classification of the overall document. Verification is, therefore, sought; both of the overall classification assigned and of those specific elements in the document which cause the classification.

A substantial portion of the document does not involve your agency and will be handled completely by the FBI.

1 - Mr. Gregar
1 - Mr. Bassett
1 -
1 - JLT:md
(6)

b6
b7c

(SEE NOTE PAGE 2)

62-118045-12

~~CONFIDENTIAL~~ ENCLOSURE

TOP SECRET - U. Greenberg/Gray-5299
Material Attached

14828
 CLASSIFIED BY 5/8/78
 EXEMPT FROM GDS CATEGORY 2
 DATE OF DECLASSIFICATION INDEFINITE

Director, National Security Agency

We believe your agency has the primary interest and should set the classification policy for that material commencing on page 1, under the first program heading, and continuing through the end of page 2. In addition, the paragraph which begins at the end of page 3 and carries on to the top of page 4 consists of information received from your agency. (U)

It would appear the complexity of the classification issues and the intermingling of information makes intelligent discussion of this document difficult in correspondence form. Accordingly, we suggest it may be beneficial to meet with representatives of your agency to discuss the document and its various considerations in detail. We are prepared to meet with you at your earliest possible convenience, should you agree that such a meeting will be helpful. Please feel free to contact me or Special Agents Joseph L. Tierney or Samry J. Miller at 324-3542 in this regard. We expect to have to handle more similar material as we proceed, but this document is the most critical and requires the most expeditious handling. (U)

Enclosures (2)

FBI CONTROL FORM FOR TOP SECRET MATERIAL

(Attach original to ☐ material; send copy to Top ☒ Secret Control Officer)~~TOP SECRET~~MATERIAL
ATTACHEDTop Secret Control Number HQ 78-1007 ^{1 XEROX OF} Copy ORIGINAL of b6 b7C copiesEmployee initially handling material SA Originator of Material FBIHQ (W. A. BRANIGAN TO E. S. MILLER)

(FBI field division, FBIHQ or outside agency)

LTR ☐ LHM ☐ REPORT ☐ TELETYPE ☐ AIRTEL ☐ MEMO ☒ OTHER ☐Dated May 31, 1972Captioned: MAJOR INTELLIGENCE PROGRAMSField or FBIHQ file and serial number Not on record (copy in 62-117166-42 encl)

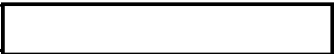
Each employee handling this material will (1) notify the Top Secret Control Officer, and (2) note on reverse side of this form the following action which applies:

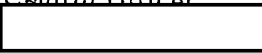
- A - Relinquished to another employee within the division.
- B - Delivered outside of the division.
- C - Downgraded, declassified or destroyed.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Greenberg/Gray-5301

A - Sign and date; do not detach from material

Signature of Receiver	Date	Signature of Receiver	Date
	5/9/78	b6 b7C	

(B) - Detach form, fill out this portion and route to Top Secret Control Officer
Delivered to: USA General Cairns  Date 5/9/78
(FBI field division, FBIHQ, outside agency)
Reminder: Obtain receipt and route to Top Secret Control Officer

C - Detach form, fill out this portion and route to Top Secret Control Officer
Downgraded to: _____ by _____ date _____
Declassified by: _____ date _____
Destroyed by: _____ date _____

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 11-27-2009 BY 65179 dm/lam

FD 502 (12-9-76)

FBI RECEIPT FOR TOP SECRET MATERIAL

Top Secret Control Number HQ.78-1007 Copy 1 XEROX OF ORIGINAL TO NSA of _____ copies.

Originator of Material FBIHQ (W. A. BRANIGAN TO E. S. MILLER)
(FBI field division, FBIHQ or outside agency).

LTR ☐ LHM ☐ REPORT ☐ TELETYPE ☐ AIRTEL ☐ MEMO ☒ OTHER ☐

Dated May 31, 1972

Captioned: **MAJOR INTELLIGENCE PROGRAMS**

b6
b7C

Delivered by [redacted] SA, FBI

Delivered to USA General Karpel

Signature of Receiver [redacted]

ROUTE THIS RECEIPT TO TOP SECRET CONTROL OFFICER

Greenberg/Gray-5303

Federal Bureau of Investigation
Office of Associate Director

, 1978

☒ Director
☐ Mr. Adams
☐ Mr. McDermott

☐ Telephone Room

☐ Mr. Bassett
☐ Mr. Cochran
☐ Mr. Colwell
☐ Mr. Cregar
☐ Mr. Joseph
☐ Mr. Kelleher
☐ Mr. Kent
☐ Mr. Long
☐ Mr. Mintz
☐ Mr. Moore

☐ Reading Room
☐ Mail Room
☐ Teletype
☐ Pr. & Sp. Mgnt. Sec.

b6
b7C

☐ Mr. Boynton
☐ Mr. Mack
☐ Mr. Feeney

☐ For Approp. Action
☐ For Your Approval
☐ Initial and Return
☐ Please Call Me
☐ For Information
☐ Per Conversation
☐ Please See Me

ALL INFORMATION CONTAINED

M

HEREIN IS UNCLASSIFIED

DATE 03-27-2009 BY 65179 dmh/baw/sbs

Room

*Rec'd from Office
Dir. 1/17/81*

4-25

JMA 62-118045

J. B. Adams
Room 7142, Ext. 3515 *RV*

UNITED STATES GOVERNMENT

Memorandum

(U)

TO : MR. E. S. MILLER

DATE: May 31, 1972

FROM : W. A. BRANIGAN

ORIGINAL ONLY
DO NOT FILE

SUBJECT: MAJOR INTELLIGENCE PROGRAMS

On May 30, 1972, Acting Director Gray inquired, "What major intelligence programs, if any, have been abolished?" He also asked for the reasons for their discontinuance and whether these programs should be reinstituted. Specifically, Acting Director Gray asked, "What is necessary to reinstitute them?" (U)

The following are major intelligence programs formerly conducted by the Bureau but which are now discontinued:

PROGRAM

[REDACTED]

largely accomplished through [REDACTED]

But there were some isolated instances when [REDACTED]

in [REDACTED] we successfully [REDACTED]

available [REDACTED]

later extending through [REDACTED] we were able to [REDACTED]

During the years of operation, the Bureau was successful

[REDACTED]

By letter dated [REDACTED] we advised the then Attorney General Ramsey Clark of [REDACTED] and asked for authority to attempt to [REDACTED] such operations involved [REDACTED]

By letter of [REDACTED] permission [REDACTED] declined. In [REDACTED] renewed his request [REDACTED]

WAB:hkg
(1)

ROUTE 60

118045-12

ENCLOSURE

Greenberg/Gray-5305

Memorandum from W. A. Branigan to Mr. E. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

(U) which was later withdrawn in [REDACTED] The Attorney General was notified of the request [REDACTED] but had not responded at the time when the request was withdrawn. X

(U) In [REDACTED] requested [REDACTED] This request was declined in [REDACTED] X

(U) In [REDACTED] [REDACTED] stated that he believed that it would be advantageous to [REDACTED] was advised that the Director stated that he would not engage in this program unless directed to do so by the Attorney General. X

(U) On [REDACTED] the Director wrote the Attorney General pointing out the grave risks involved in such an operation and further that the planned [REDACTED] would represent a new [REDACTED] X

(U) It is our considered opinion that we should reinstitute the [REDACTED] Program on a limited basis where the [REDACTED] can be obtained through cooperating sources. It is our considered judgment that the Bureau at this time should not embark on a program of [REDACTED] in this regard we recognize the grave consequences to [REDACTED] We recognize the additional [REDACTED] the increased alertness of [REDACTED] Finally we recognize the [REDACTED] X

(U) In order to reinstitute a program involving the [REDACTED] it would be necessary to assemble selected personnel in the [REDACTED] offices and [REDACTED] These personnel would necessarily have to [REDACTED] X

Memorandum from W. A. Branigan to Mr. E. S. Miller
RE: MAJOR INTELLIGENCE PROGRAMS

[REDACTED] is one of the most
difficult problems that we face.

(U)

Greenberg/Gray-5307

FBI

Assoc. Dir. _____
 Dep. AD Adm. _____
 Dep. AD Inv. _____
 Asst. Dir.: _____
 Adm. Serv. _____
 Crim. Inv. _____
 Ident. _____
 Intell. _____
 Laboratory _____
 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Servs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

TRANSMIT VIA:

☐ Teletype
☐ Facsimile
☒ Airtel

PRECEDENCE:

☐ Immediate
☐ Priority
☐ Routine

CLASSIFICATION:

☐ TOP SECRET
☐ SECRET
☐ CONFIDENTIAL
☐ E F T O
☐ CLEAR

Date 5/17/78

TO: DIRECTOR, FBI
 FROM: SAC, PHOENIX (66-1596)
 SUBJECT: INDICTMENTS OF
 L. PATRICK GRAY,
 W. MARK FELT, and
 EDWARD S. MILLER
 INFORMATION CONCERNING

Today the enclosed letter, signed by 126 employees of the Phoenix Division, including the SAC, was mailed to Attorney General.

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 HEREIN IS UNCLASSIFIED
 DATE 03-27-2009 BY 65179 dmh/baw/sbs

62-118045-12X

15 JAN 13 1981

62-118045

RECEIVED

2 - Bureau (Enc. 1)
1 - PhoenixLMG/mcf
(3)

ENCLOSURE

THREE

Approved: LMG

Transmitted _____

Greenberg/Gray-5308

(Number)

(Time)

Per _____

FBI/DOJ

69 FEB 10 1981

May 9, 1978

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs

Honorable Griffin B. Bell
Attorney General of the United States
Washington, D. C.

Dear Mr. Bell:

On January 14, 1977, the Department of Justice issued a prosecutive opinion, in the form of a report, with respect to a campaign of warrantless mail opening conducted by C.I.A. employees from 1953 to 1973.

The report states that prosecution would be unlikely to succeed because of the unavailability of important evidence and because of the state of the law that prevailed during the course of the mail opening program.

This report made certain points, set forth below, which are of genuine concern to both present and past employees of the F.B.I.

These points are as follows:

1. The notion that warrantless mail opening programs of the C.I.A. were obviously illegal is a mistaken perception of our Nation's recent history.
2. A belief existed within and outside government that in response to exigencies of national security, the President had broad constitutional authority with respect to the collection of intelligence information.
3. Judicial decisions in this field were rare and of ambiguous import.
4. It is reasonable to believe, that persons should not be prosecuted when the governing rules of law have changed during and after the conduct alleged to be illegal, was performed.
5. A prosecution for this conduct would be particularly unfair when it is considered that ignorance of the developing law was in large part the fault of the Government and the Department itself.

62-118045-12X
Greenberg/Gray-5309

ENCLOSURE

6. The Department considered prosecutions in the 1960's based upon evidence derived from F.B.I. warrantless mail openings and decided not to prosecute. The Department took no steps to instruct the C.I.A. or F.B.I. to cease their mail opening activities.
7. During the mid-1960's and early 1970's, the then Attorneys General probably were informed generally of C.I.A. warrantless mail opening activities. Again, no steps were taken to determine the scope or legality of this activity.
8. The Department's investigation disclosed that the persons operating in the intelligence field were left to proceed according to their best estimates of legal constraints in a vague and yet vitally important area. This, in effect, left them to "take their chances" in an extremely uncertain legal environment.
9. In such circumstances, prosecution takes on an air of hypocrisy and may appear to be the sacrifice of a scape-goat.
10. Presidents from Eisenhower to Nixon were apparently aware of the warrantless mail opening activity, but, because of the policy of "Presidential Deniability", concrete evidence of this knowledge was unavailable.
11. Prosecution of this case would be tantamount to indicting an era and would raise fundamental questions concerning the application and use of the criminal law.

Primarily, for the reasons set forth above, prosecution of C.I.A. Agents involved in this activity was declined.

The parallels between the case set forth above and the Department's indictment of three former F.B.I. officials in April, 1978, are, to say the least, significant.

Both cases involved alleged violations of Fourth Amendment Constitutional safeguards.

Warrantless surreptitious entry, like C.I.A. mail openings, has been a valuable investigative technique of the F.B.I. for many years in the national security field.

Undoubtedly, past Presidents, Attorneys General and other high executive branch officials were aware of F.B.I. practices of surreptitious entries, just as the evidence - in the report mentioned above - reflects that they were aware of C.I.A. mail opening activities.

Certainly, no past President or Attorney General, presumably being aware of activities of this nature, took positive steps to instruct the F.B.I. that these practices violated the Fourth Amendment. It is extremely unlikely that past President Nixon or former Attorney General John Mitchell would admit, under these circumstances, that they knew about F.B.I. surreptitious entry practices. However, it is well known that the Weatherman Bombings were a great source of embarrassment to President Nixon's war on crime; and therefore, it is reasonable to assume that he would order the F.B.I. through the Attorney General to utilize all proven investigative techniques, including surreptitious entry, to bring this crime wave to a halt. Because of the concept of "Presidential Deniability", concrete evidence of this belief probably does not exist.

AS late as 1972, Departmental Attorneys argued before the U.S. Supreme Court in *United States vs. United States District Court (Keith Case)*, that no prior judicial approval was necessary for F.B.I. Agents to utilize electronic surveillance equipment to overhear private conversations of domestic subversives.

The Department argued that this conduct was lawful as a reasonable exercise of the President's power to protect national security and was not covered by the Fourth Amendment. This stand by the Department reflects its firm belief that the President's authority to conduct warrantless investigations in the national security field, was outside the parameters of the Fourth Amendment.

The indictment of the former F.B.I. officials covers the period of May, 1972 until May, 1973.

It is recognized that the so-called "Keith Case" held on June 19, 1972 that prior judicial approval was heretofore necessary before electronic surveillance could be undertaken against domestic radicals; and therefore, by analogy, this case could be held to impose the same standard upon F.B.I. conduct in the surreptitious entry field.

However applying this new standard to such a short period of time (July, 1972 - May, 1973) ignores the fact that this practice occurred regularly for many years without any question of its legality.

It is also reasonable to assume that persons who were aware of the implication of the Keith Case could misunderstand its effect and believe that it only related to electronic surveillance.

In any event, the C.I.A. mail opening campaign was not ended until February, 1973, which was eight months after the "Keith Case" was decided.

The F.B.I. conduct, for which the three former F.B.I. officials stand indicted, continued until May, 1973. The Department has stated that persons should not be prosecuted when the governing rules of law change during the time period when the conduct alleged to be illegal was performed.

To apply a "Keith" standard to F.B.I. personnel, who arguably were not aware of its full implications and fail to apply it to C.I.A. personnel for essentially similar conduct, i.e. disregard of Fourth Amendment principles, smacks of an arbitrary double standard which can only be assumed to stem from a vindictive desire to bring public discredit upon the F.B.I.

As you know, a conviction under Title 18, U.S.C. Section 241, can only be successful if the prosecution can prove that the defendants specifically intended to violate an alleged victim's known or definite constitutional right.

It is submitted that the defendants in this case intended only to obtain information leading them to the whereabouts of radical bombers and had no motivation or intent to violate the Fourth Amendment rights of the alleged victims.

The Department's own prosecutive report regarding C.I.A. activities, states that a successful prosecution under Section 241 can only be maintained, if it can be shown at the time the defendants acted, that protection of the right violated, had been made definite by decision or other rule of law.

This report states "it is doubtful that, at the time the defendants (CIA) acted, the Fourth Amendment forbade their actions with sufficient clarity to be definite," as required for conviction.

There is no substantial difference between the C.I.A. conduct outlined in the above report and the F.B.I. conduct resulting in the above indictments.

Page -5-

Using the Department's own language, we, the undersigned, cannot help but feel "in such circumstances, prosecution takes on an air of hypocrisy and may appear to be the sacrifice of a scape-goat."

Even assuming, for the sake of argument, that the F.B.I. conduct which resulted in the indictments was clearly illegal, the principle of a dual standard of Justice cannot be lightly dismissed.

This is especially true when one considers the fact that amnesty was granted for draft dodgers and deserters who shirked their duty to Country while F.B.I. Agents, who were acting only in the interest of their Country are treated like common criminals and prosecuted for doing what they reasonably perceived as their duty.

This prosecution seems even more vindictive and malicious when compared with the Department's decision not to prosecute a former C.I.A. Agent after he allegedly revealed highly sensitive information concerning the identities and locations of C.I.A. operatives in foreign countries.

In view of the above, we protest the Attorney General's decision to indict L. Patrick Gray, W. Mark Felt and Edward S. Miller.

We, the undersigned, consider these men not to be lawbreakers but rather modern day heroes, who deserve a better fate than prosecution for their efforts on behalf of this Country.

Sincerely yours,

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Robert Hough
Deputy Assistant Attorney General
Criminal Division
John J. Holmbeck
Deputy Associate Director
Federal Bureau of Investigation
U. S. vs. J. Patrick ~~Gray~~ III, et al
DISCOVERY PROCEEDINGS

5-19-78

~~FEDERAL GOVERNMENT~~

Reference is made to a letter, with enclosure, from the Federal Bureau of Investigation to the National Security Agency (NSA), dated May 9, 1978, a copy of which is attached for ready reference. Also attached is a copy of the NSA response dated May 15, 1978.

Please note both of the above enclosures are classified "CONFIDENTIAL" and are to be handled by COMINT channels only.

As a review of the enclosures will indicate, we have been advised by NSA that materials such as those encountered in the internal FBI memorandum from W. A. Branigan to E. S. Miller dated May 31, 1972, and captioned "Major Intelligence Programs," should continue to be classified "TOP SECRET" with access restricted to individuals who have an "SI" clearance.

The exchange of correspondence with NSA has resolved the issues of whether the document is properly classified, and whether the copy of the document with our proposed excisions is unclassified. We are in the process of resolving with NSA whether or not they would consent to furnishing the document to defense counsel in an unexcised and still classified form. We will advise you as soon as this third issue is settled.

As discussed in the past, most recently during our conference on April 28, 1978, there are an undetermined number of copies of this FBI document which have been made available to Mr. Shelnik's office and, thereafter, reproduced.

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Director's Sec'y _____

1 - Mr. Cregar (Enclosures)
1 - Mr. Bassett (Enclosures)
1 - [redacted] (Enclosures)

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REC-110
62-118045-13
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MAY 18 1978

14 AUG 31 1978

CONFIDENTIAL MATERIAL ATTACHED
HANDLE VIA COMINT CHANNEL ONLY

ENCLOSURE

Daly 6888

84 SEP 14 1978 ROOM ☒

Greenberg/Gray-5314

FBI/DOJ

Deputy Assistant Attorney General
Criminal Division

In addition, there are an undetermined number of similar documents which have not been reviewed by the FBI but which contain similar material of presumably identical classification levels requiring restricted access. Such material was pointed out in my memorandum to Mr. Sholnik on February 6, 1972.

We will continue to service the requirements of Mr. Sholnik's office in complying with discovery demands by the three defendants in this case, although we expect to encounter considerable difficulty in accomplishing referrals to third agencies and in handling highly classified materials which we are viewing for the first time as necessary for use at trial in the prosecution of the captioned case.

We will keep you advised of any significant developments in this regard, in view of your responsibilities with regard to discovery, and your interest as a member of the Departmental Review Committee.

Enclosures (3)

1 - Mary G. Lutton (enclosures) 3
Deputy Assistant Attorney General
Office of Legal Counsel

1 - Edward D. Sholnik (enclosures) 3
Criminal Division

APPROVED:

Director

Assoc. Dir.

Dep. AD

Dep. AD Inv.

Adm. Serv.

Crim. Inv.

Ident.

Intell.

Laboratory

Legal Coun.

Plan. & Insp.

Rec. Mgnt.

Tech. Servs.

Training

Public Affs. Off.

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 03-27-2009 BY 65179 dmh/baw/sbs

9/12/79

TO: MESSRS. COLWELL, BOYNTON, CREGAR,
MINTZ, DALY, AND TIERNEY

FROM: ADRIAN STEEL

AS
OF FELT, W. MARK.

Attached is a copy of a memo summarizing the agreements reached at our meeting with John Nields on 9/7/79 relating to discovery in U.S. v. Felt, et al.

Judge Webster has reviewed and initialed the memo and I thought each of you might like to review the memo for information purposes.

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*File in
U.S. vs. Felt, et al.
"as is" per mi Steel
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4-84

1- ENCLOSURE

Greenberg/Gray-5316

September 11, 1979

Doc
Judge,

O FELT, W. MARK

As per your request, this memorandum sets forth the substance of the decisions made with Special Counsel John Niels at our meeting on Friday, September 7, relating to discovery in U.S. v. Felt, et al. Mr. Mintz has reviewed this memorandum and is in agreement that it sets forth the substance of those decisions.

It was agreed that, at least with respect to FBI documents and information, the government will supply access to all the documents at issue in an unredacted form to the two defendants and to two attorneys for each defendant. Exceptions to unredacted access can be made where a particular source, technique or method of special sensitivity is contained in a document. In such cases, the document can be shown to the District Court judge to explain the reasons for the redaction. This access will be provided in the vault at the Department of Justice and will limit note taking to only a list of identifying numbers of those documents the defendants or their counsel wish to argue are relevant to the court.

Mr. Niels also agreed that this access was to be provided for discovery purposes only, and he would seek an appropriate court order to limit use and dissemination of the information. (I will ask Paul Daly to obtain a copy of the order to be proposed to the court to protect the information.) Finally, Mr. Niels agreed to check with other appropriate agencies if a particular piece of information came from those agencies or could impact upon such matters as foreign policy.

You also instructed Daly to conduct further review of the documents in order to assure that only the redactions which are, in fact, necessary to protect confidential sources or techniques are made.

If this memorandum is in accord with your view as to the decisions made, I will keep it in our file for possible further reference.

Adrian
Adrian

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62-118045
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11 MAR 11 1981
It was 2/12/79

60 MAR 12 1981

ALS:cwb

(2)

Greenberg/Gray-5317

Department of the Army

5-22-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6838, JEM

BY LIAISON

U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/THIRD AGENCY AND CLASSIFIED MATERIAL

~~FEDERAL COVER~~

Enclosed is a package of copies of documents from
FBI records together with a standard form cover sheet listing
each document and explaining, in general terms, the necessity
for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records
to be provided to defense attorneys during discovery and
possibly for later use by either the prosecution or the
defense at trial. The prosecution involved is that announced
on April 10, 1978, in which the former Acting Director and
two other retired FBI officials have been charged with violating
civil rights by surreptitious entries.

We must be able to determine from your
reply the following: 1. Whether or not the document is
properly classified under the current standards of Executive
Order 11652. 2. What portions, if any, your agency feels
should not be given to defense counsel during discovery for
any of the following three reasons: a. Disclosure would
compromise an ongoing investigation. b. Disclosure would
compromise an informant or source. c. Disclosure would
constitute undue embarrassment or damage to an unrelated
third party. 3. What portions of the document, although
accessible during discovery, should not be used in open
court, eg., classified material not falling into any category
under paragraph two, above, which may be exhibited to defense
attorneys processing proper clearances but which should not
be used in open court. Marking material which remains
classified denoting the classification level down to at
least the paragraph level will normally suffice.

You may make and retain or return all copies of
this correspondence, the referral form, and the documents,
at your option.

Enclosures (6) ENCLOSURE

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Dep. AD Inv. _____
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Director's Sec'y _____

ULT: dmd

~~SECRET MATERIAL ATTACHED~~

Greenberg/Gray-5318

FBI/DOJ

8 4 SEP 14 1978 J.L. Tierney, Rm 6888

Department of the Army

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

NOTE: Future requests will be handled through liaison with cover sheet only, except when TOP SECRET or compartmentalized material is involved. When necessary, receipts will accompany the cover sheet. Each cover sheet identifies those documents being referred by serial and gives a more concise set of instructions regarding the review needed.

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HEREIN IS UNCLASSIFIED
DATE 03-27-2009 BY 65179 dmh/baw/sbs
Envelope only

Greenberg/Gray-5320

62-118045-14

ENCLOSURE

Director, National Security Agency
Attention: Coronal Control

1-33-70

F. W. Jolly, Federal Bureau of Investigation
Defense Discovery Special
Room 6883, JEN
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED/CONFIDENTIAL

REFERENCES

FEDERAL GOVERNMENT

Reference is made to my letter to you on May 9, 1978, and to your response dated May 15, 1978.

We very much appreciate both the promptness and the definitive nature of your answer to our two questions. We are now able to proceed with a clearer understanding of your interest and its gravity.

A third issue remains beyond the two addressed in our exchange of correspondence. The issue concerns access by defense counsel during discovery to documents, the same as, and similar to that under discussion.

The Attorney General has issued clearances to defense counsel for all three defendants. They have been authorized access to material up to the "Top Secret" level with additional access to compartmentalized information included.

REC-110

62-118045-15

Although copies of some classified material are being furnished to defense counsel, available storage facilities will probably preclude their possession of copies of documents containing compartmentalized information. The FBI will undoubtedly recommend such a limitation in any case.

No, therefore, need your view on the third of whether properly cleared defense attorneys should be given the opportunity to review unexamined and still classified versions of the document as have discussed and similar materials. If you would agree to access by them for the purpose of review, a fourth issue arises of whether or not they should be allowed possession of such materials.

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Public Affs. Off. _____
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Director's Sec'y _____
MAIL ROOM ☒

1 - Mr. Cregar
1 - Mr. Bassett

(SEE NOTE PAGE 2)

Hand delivered by TIELENEY
5/24/78 JH

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Greenberg/Gray-5338

FBI/DOJ

8 4 SEP 14 1978

UNITED STATES GOVERNMENT

Memorandum

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

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Director's Sec'y _____

TO : Mr. Bassett

DATE: 5-25-78

FROM : P. V. Daly

SUBJECT: U. S. vs. GRAY, FELT, AND MILLER

4/28
PURPOSE: To advise of Departmental acceptance of Bureau position in connection with discovery concerning captioned matter to protect sensitive sources, methods, and techniques. *Edward S. Miller*

DETAILS: By memorandum dated May 12, 1978, you were advised that in connection with the Government's response to the discovery request made by various defendants, the Department had neglected to include in its response a provision allowing for the protection of informants and other sensitive material. This problem was discussed with Robert L. Keuch, Deputy Assistant Attorney General of the Criminal Division, who agreed with the Bureau's concerns. As a result of that discussion, Keuch, by memorandum dated May 22, 1978, to Frank Martin of the Department's FBI Task Force (copy attached), suggested the following language be added to any agreement concerning discovery, outlining what materials may be excised, "Information which would identify or tend to identify an informant, source, sensitive method or technique may be redacted." *app*

Mr. Keuch is also arranging for a meeting between FBI representatives and departmental personnel responsible for the prosecution to discuss additional problems presented by the discovery request.

RECOMMENDATION: None, for information.

Enclosure

1 - Mr. Bassett

PVD:dmd
(2)

APPROVED:

Director _____
Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____

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app
ENCLOSURE

Greenberg/Gray-5353

8 SEP 14 1978



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

FBI/DOJ

memorandum

DATE:
REPLY TO
ATTN OF:

May 22, 1971

Robert L. Keuch, Deputy Assistant
Attorney General, Criminal Division

RLK:Mal

SUBJECT: Discovery Responses

TO: Frank Martin
Task Force (Room 2241)

Per our conversation -- I would suggest we protect our options by language along the following lines:

"Information which would identify or tend to identify an informant, source, sensitive method or technique may be redacted."

cc: Paul Daly, FBI ✓
Mary Lawton, OLC

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DATE 03-31-2009 BY 65179 dmh/baw/sbs



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ENCLOSURE

Greenberg/Gray-5354

OPTIONAL FORM NO. 10
(REV. 7-76)
GSA FPMR (41 CFR) 101-11.6
5-10-112

62-118045-17

UNITED STATES GOVERNMENT

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 04-09-2009 BY 65179 dmh/baw/sbs

TO : Paul V. Daly
FBI Headquarters

DATE: May 25, 1978
FJM:ams

FROM : Francis J. Martin, Trial Attorney
Criminal Division

SUBJECT: Discovery in United States v. Gray, et al

I. The Weatherman Files

You have received a copy of the informal exchange of correspondence with defense counsel pursuant to which we have agreed to make certain discovery undertakings.* The principle such undertaking, in terms of volumes of material, is our agreement to make the Weatherman files (Headquarters and New York) available to defense counsel. Enclosed is the letter to defense counsel informing them that approximately 450 volumes of Weatherman files that you have processed are ready for their review. It is probable that some additional Weatherman files will need to be processed for defense counsel. At this time the files on [redacted] and [redacted] should be processed. You should also process the files (New York and Headquarters) on [redacted]

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[redacted] Capbom, Penbom and Explosion at ITT Building (Bufile 174-4567). We will attempt to determine in the near future whether defense counsel will want to see any further Weatherman files. (gpc)

II. Files (Other than Weatherman) which We have Agreed to Turn Over

In addition to the Weatherman files, the Government has also agreed to make certain other materials available to defense counsel. It is very important that these materials be processed and made available to defense counsel as soon as possible. In approximate order of importance, these materials are as follows:

1. Materials seized in New York and Washington on August 19, 1976 (Gray request #8). We have agreed to make available any of these documents that relate to Weatherman. Accordingly, these

*A supplemental discovery request by Gray's counsel and the Government's response are enclosed.

ENCLOSURE



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ENCLOSURE

14 AUG 31 1978

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

4-PVD

Greenberg/Gray-5355

84 SEP 14 1978

materials should be processed as soon as possible (if that has not already been done in connection with the Kearney case). Also, as you know, after its initial seizure certain materials were returned to IS-2, where they were later destroyed. An effort should be made, based on inventories or any other available data source, to determine as well as possible what materials were destroyed. Also, please provide any regulations that relate to the routine destruction of such materials.

2. Materials relating to policy statements on surreptitious entries (Gray request #50). You have already provided, and we have turned over to defense counsel, the "Hoover memos" and other materials in this category. Any additional materials should be processed as soon as possible.
3. The Huston Plan and any internal documents relating to the Huston Plan (up to June 1973) should be processed (Gray request #53).
4. We have agreed to provide the "Haynes memo" (Gray request #54). This memo, and any similar documents dealing with FBI - White House communication on Weatherman, should be processed.
5. We have agreed to provide any studies relating to the jurisdiction in the intelligence field of the Domestic Intelligence Division during the period 1969 (last study prior to that date) thru June 30, 1974. This material should be gathered and processed.
6. We have agreed to provide FBI materials relating to the Keith decision. This material should be processed and would include any specific directives issued as a result of Keith and any general directives or policy analyses prepared during the period of the alleged conspiracy, i.e., up to June 1973.
7. We have agreed to provide any materials relating to directives issued by Mr. Gray to the effect that breach of law or of FBI regulation by agents would not be tolerated (Gray request #30). Mr. Gray has also requested (Gray request #90) any documents indicating that SAC's disregarded, or sought to determine the applicability to surreptitious entries of, a September 21, 1972 memorandum issued by Gray (copy attached). You should endeavor to locate any documents which would be responsive to this request.

Mr. Gray may consider statements that he made when addressing agents during field office visits as within the scope of this request. You should determine the nature and extent of any records reflecting such statements, some of which may have been tape recorded.

8. You should obtain the tape and transcript (if any) of Mr. Gray's meeting with SAC Grappe in August 1972 (Gray's request #34).
9. We have agreed to provide Mr. Gray with certain materials relating to his dealings with the Cabinet Committee to Combat Terrorism (Gray request #21), the National Security Agency (Gray request #23) and the President's Foreign Intelligence Advisory Board (Gray request #24). These materials should be gathered and processed.

III. Files which the Court May Order Us to Turn Over.

In addition to the materials that the Government has voluntarily agreed to supply to the defense, it is likely that at least some additional discovery will be ordered by the Court as a result of discovery motions filed on May 22, 1978. Those motions, for the most part, seek materials that defense counsel have previously requested but that the Government has declined to produce. Should the Court order any such material produced, it is absolutely imperative that the Government not be required to ask for a substantial delay in order to prepare to make such material available to the defense. While it may not be possible to be prepared totally for every possible contingency, it is essential that the Government be in a position to represent to the Court that it has been making better than a good faith effort to have all disputed discovery material processed as expeditiously as possible, so that it will be available for defense counsel's review if the Court so orders. Accordingly, you should begin processing the following materials, with a firm target completion date of July 1, 1978:

1. Mr. Gray has requested all documents reflecting FBI efforts regarding Arab terrorists during his tenure (Gray request #32). The Government has denied this request as overbroad, but may agree to a narrower request. In any event, at a minimum, the files on [redacted] and on Al Fatah, as well as any other control files, should be processed for the period of Gray's directorship.
2. Foreign Influence: counsel for all defendants have requested -- both generally (e.g. Gray request #11) and as to specific items (e.g. Gray request #59) -- materials tending to establish the proposition that

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Greenberg/Gray-5357

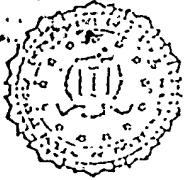
the Weatherman constituted a "foreign" terrorist group. The Government has opposed this discovery as irrelevant. Should the Court rule for the defense on this issue, however, it will be vitally important for the Government to be able to produce this material for defense review as soon after such ruling as possible. Accordingly, you should process the specific materials requested (Gray request #59) as well as any other files bearing on the foreign influence issue. That processing must include appropriate submissions to third agencies asking for the release of any requested documents or information that were generated by that agency.

3. The defense has requested two 1975 position papers from the Intelligence Division (Gray request #'s 47 and 48) which the Government has declined to produce on the grounds that they are irrelevant to the events of 1972-73. These position papers should be processed. Also, Mr. Gray has requested materials relating to the "abandonment or resumption" of intelligence programs (Gray request #71). This material should also be processed.
4. Mr. Gray has requested materials relating to all post-1966 (Hoover cut-off) bag jobs. You should process all materials relating to all such bag jobs.
5. Mr. Gray has requested any documents showing that Congressional Committees investigating Capbom were informed that surreptitious entries had occurred or would occur in the FBI investigation of the Weatherman. The Government has responded that Government counsel are unaware of any such documents. You should gather any materials relating in any way to testimony before, or documents submitted to, any Congressional Committee with respect to Capbom.

We should arrange to meet soon in order to discuss any logistical problems which you may foresee in preparing discovery materials in strict accordance with instructions set forth above.

cc: Keuch
Lawton

Greenberg/Gray-5358



In Reply, Please Refer to
File No.

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

September 21, 1972

PERSONAL ATTENTION
MEMORANDUM 23-72

Mr. Tamm _____
Mr. Callahan _____
Mr. Cleveland _____
Mr. Conrad _____
Mr. Dalbey _____
Mr. Jenkins _____
Mr. Marshall _____
Mr. Miller, L.S. _____
Mr. Ponder _____
Mr. Soyars _____
Mr. Walters _____
Tele. Room _____
Mr. Kinley _____
Mr. Armstrong _____
Ms. Herwig _____
Mrs. Neenan _____

Memorandum to All Special Agents in Charge:

(A) USE OF MICROPHONES AND RECORDING EQUIPMENT --

In order to avoid any misunderstanding relative to the situation recently uncovered in our Los Angeles Office, you are advised that as a result of an inquiry which I ordered it was determined that the Special Agent in Charge of that office had his office equipped with electronic devices in order to record conversations occurring in his office as well as telephone conversations.

This was in direct violation of Bureau regulations. Specifically, the Special Agents' Handbook, Part I, page 1, states that, "a Special Agent shall not engage in entrapment or any other improper, illegal or unethical tactics in procuring information or evidence." This Handbook, in Part I, page 1b, states that a Special Agent shall not "install secret phone systems or microphone plants without Bureau authorization." Part I, Section 1, page 2, Manual of Rules and Regulations, states, "employees must not install secret telephone systems or microphones without Bureau authority."

In view of the foregoing situation, I want to reiterate the above long-standing regulations and to advise that drastic administrative action will be taken against any employee who violates or attempts to violate these regulations.

L. Patrick Gray, III
Acting Director

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HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

9/21/72
MEMORANDUM 23-72

102-118045-18

ENCLOSURE Greenberg/Gray-5359

*Gray-
Additional
file Copy*

17 74. All documentation and tangible objects in the Government's possession, custody or control which reflects in any way that the House and Senate Intelligence Committees and the General Accounting Office were misled by representatives of any government agency concerning the nature and extent of surreptitious entries by agents of the Federal Bureau of Investigation.

25 75. All documents and tangible objects in the Government's possession, custody and control which reflect in any way that any government agency other than the Federal Bureau of Investigation engaged in undercover penetration and/or surreptitious entries of premises frequented or believed to be frequented by members of the Weatherman Organization and/or friends or sympathizers of that organization, including, but not limited to all such documents relating to the so-called "Chaos" program conducted by the Central Intelligence Agency from January 1, 1960 to the present.

36 76. Any and all documents and tangible objects in the Government's possession, custody or control which reflect in any way that the President of the United States and/or the Attorney General of the United States and/or their representatives were advised that the F.B.I. investigation of the Weatherman Underground would include surreptitious entries.

37 77. Any and all documents in the Government's possession, custody or control which reflect in any way that Congressional Committees investigating the Weatherman Underground's bombing of the U. S. Capitol were told that surreptitious entries had occurred or would take place in the future.

78. State whether or not former Attorney General Elliott L. Richardson was the subject of an investigation for alleged violations of law similar to those charged in the instant indictment. If the answer is in the affirmative, produce all documents, and tangible objects, in the Government's possession, custody or control, which reflect in any way that Richardson authorized or ratified surreptitious entries by government agents against the Weatherman Underground.

44 79. Disclose the date of convening of each grand jury considering proceedings against the defendants in this case, or any of them, in the United States District Court for the Southern District of New York or the United States District Court for the District of Columbia or elsewhere; the date of the first issuance of a subpoena duces tecum by each such grand jury; the date of the first issuance of a subpoena for testimony by each such grand jury; the date of the first receipt of documents by each such grand jury; the date of dissolution of each such grand jury; and identical information relating to the grand jury returning the indictment in this matter.

62-118045-18

ENCLOSURE Greenberg/Gray-5360

~~45~~ 50. Produce all petitions, motions and orders of court relating to the convening and/or discharge of any of the aforesaid grand juries.

~~46~~ 81. Produce a listing of all materials subpoenaed by each such grand jury and all witness testimony taken by each such grand jury and a statement as to which of these documents and what of this testimony was submitted to each subsequent grand jury, including each reference by any prosecutor to any such document(s) or testimony.

82. State whether any of the prosecutors present at [redacted] testimony before the Washington grand jury on March 6, 1978 had occasion to review prior to such time, [redacted] s prior testimony before any other grand juries. b3

~~51~~ 83. Produce all press releases, speeches, interviews, public statements, or transcripts or recordings of public statements formal or informal by the Attorney General of the United States, the Chief of the Criminal Section of the Civil Rights Division or other representatives of the Department of Justice relating in any way to the investigation or indictment of the defendant.

~~52~~ 84. Produce all records and notations of meetings or personal or telephone conversations with media representatives by the Attorney General of the United States or personnel of the Department of Justice relating in any way to the investigation or indictment of the defendant.

~~53~~ 85. Produce all press releases, public statements and communications to Congressional Committees issued at any time by the United States Attorneys for the District of Columbia or the Southern District of New York, or the Department of Justice relating in any way to investigations of illegal break-ins by the Federal Bureau of Investigation generated since January 1, 1973.

~~54~~ 86. Identify the time, place, participants, nature, occasion and substance of each statement to or in the presence of any press, radio or television representative concerning the investigation or indictment of the defendant, by the Attorney General of the United States, by any representative of the United States Attorney's Office in New York or Washington, the Department of Justice or any employee thereof, to the extent that this information is not disclosed by documents produced pursuant to paragraph 85.above.

55 ~~47~~. Produce all internal Justice Department memoranda relating in any way to pre-trial publicity in connection with the investigation or indictment of defendant and identification of the time, place, participants, nature, reason and substance of each verbal communication or instruction within the Justice Department relating to pre-trial publicity in connection with this investigation and indictment, including all communications between the Department and present and former counsel associated with the investigation including William L. Gardner, Stephen Horn, and Richard F. Johnston relating to volunteered public statements concerning the investigation and indictments.

56 ~~48~~. Produce those portions of the grand jury minutes reflecting questioning of witnesses by grand jurors or comments by grand jurors.

57 ~~49~~. Produce all press clippings relating to the investigation and indictment of defendant systematically maintained by or in the possession of the Department of Justice.

90. Attached hereto find a copy of Mr. Gray's memorandum of September 21, 1972. Produce any documents or tangible objects in the Government's possession, custody or control which:

- (a) Indicate that SACs were told by anyone to disregard the contents of this memorandum;
- (b) Reflect that any SAC or representative of any SAC contacted F.B.I. headquarters to determine whether this memorandum applied to the conducting of surreptitious entries by F.B.I. agents; and
- (c) Reflect that there was any response to any inquiry set forth in paragraph 90(b).

91. All documents or tangible objects which reflect in any way that Mr. Hoover ordered the reinstitution of surreptitious entries as an investigative technique by F.B.I. agents, including, but not limited to, any statements by William C. Sullivan to that effect.

39 ~~52~~. All documents or tangible objects which reflect that F.B.I. agents received incentive awards for conducting surreptitious entries from January 1, 1960 to the present.

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

May 15, 1978

Address Reply to the
Division Indicated
and Refer to Initials and Number

FJM:ams

Alan I. Baron, Esquire
Frank, Bernstein, Conaway & Goldman
1300 Mercantile Bank & Trust Building
2 Hopkins Plaza
Baltimore, Maryland 21201

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

Re: United States v. Gray, et al

Dear Mr. Baron:

The following constitutes the Government's response to additional non-Rule 16 discovery requests received from you on May 9, 1978. As with our response of May 10, 1978, to non-Rule 16 discovery requests from counsel for each defendant, the Government retains the right suitably to redact the material produced so as to protect on-going investigations and to prevent undue embarrassment or injury to unrelated third parties. As to all discovery herein agreed to, the phrase "to the extent known to Government counsel" should be understood to modify all of our discovery undertakings.

Additional Requests by Defendant Gray

74. This request is denied as irrelevant.

75. This request is denied as irrelevant.

76. No such documents reflecting that any President or Attorney General was so advised are known to Government counsel. As to "their representatives" any such documents will be provided to the extent indicated in ¶4 (Gray's original requests) of our letter of May 10, 1978.

77. No such documents are known to Government counsel.

78. What are you talking about?

79. The following information will be provided: the date each grand jury was sworn in; the date on which each grand jury first heard evidence in this investigation; and the date each grand jury last met with regard to this investigation.

cc: Brian Gettings, Esquire
Thomas A. Kennelly, Esquire

Greenberg/Gray-5363

62-118045-18

ENCLOSURE

80. This request is denied, as irrelevant, however certain data will be provided as indicated in ¶79 above. If any further data is still required, please let us know.

81. This request is denied.

82. Yes

83. To the extent that the request seeks material which has not been reported in the public media it is denied as irrelevant: to the extent that the request seeks public media reports it is denied because such reports are equally accessible to all counsel.

84. To the extent that the request seeks material which has not been reported in the public media it is denied as irrelevant: to the extent that the request seeks public media reports it is denied because such reports are equally accessible to all counsel.

85. To the extent that the request seeks material which has not been reported in the public media it is denied as irrelevant: to the extent that the request seeks public media reports it is denied because such reports are equally accessible to all counsel.

86. To the extent that the request seeks material which has not been reported in the public media it is denied as irrelevant: to the extent that the request seeks public media reports it is denied because such reports are equally accessible to all counsel.

87. This request is denied.

88. Jencks material will be turned over 30 days before trial.

89. This request is denied because it seeks public media reports that are equally accessible to all counsel.

90. No such documents or objects are known to Government counsel.

91. No such documents or objects are known to Government counsel. However, materials relating to Mr. Sullivan will be produced as indicated in ¶63 (Gray's original requests) of our letter of May 10, 1978.

Greenberg/Gray-5364

92. This request is denied as irrelevant.

A handwritten signature in dark ink, appearing to read "Francis J. Martin", written over a horizontal line.

Francis J. Martin
Trial Attorney
Criminal Division

UNITED STATES GOVERNMENT

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

Memorandum

TO : Mr. Bassett

DATE: 5-26-78

FROM : P. V. Daly

SUBJECT: U. S. vs. L. PATRICK GRAY III, ET AL

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

PURPOSE: To record receipt of additional requests in connection with discovery for captioned case.

DETAILS: By letter dated May 25, 1978, addressed to Paul V. Daly (copy attached with its enclosures), the Department requested additional material be prepared for review by defense counsel in connection with captioned case. Among the material to be processed for possible review is the following: 1. "Bag jobs" from 1966 to 1974. 2. Materials seized in New York and FBI Headquarters by representatives of the FBI's Task Force on August 19, 1976, relating to Weathermen. In connection with this request, some of the material has since been destroyed. The Department desires we attempt to determine what was destroyed. 3. Files on Al Fatah, bombing of the Capitol (Capbomb) and bombing of Pentagon (Penbomb). 4. Materials relating to Mr. Gray's contacts with the Cabinet Committee to Combat Terrorism, the National Security Agency (NSA), and the President's Foreign Intelligence Advisory Board.

It should be anticipated that extremely sensitive material will be processed for review by attorneys in this matter. Redactions will be made to protect ongoing operations, sensitive sources, methods, techniques, informants, and the privacy of unrelated third parties. A significant percentage of the material will have to be referred to other agencies for their review prior to release. To date, the documents referred to NSA for approval have been primarily classified "Top Secret" and required compartmental clearance for access. NSA has tentatively indicated they would oppose giving the material to defense counsel.

RECOMMENDATION: None, for information.

ENCLOSURE

Enclosures (3)

1 - Mr. McDermott
1 - Mr. Bassett
1 - Mr. Colwell

1 - Mr. Daly
1 -
1 - Mr. Tierney

PVD:dmd
(7)



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan
Greenberg/Gray-5366

8 4 SEP 14 1978

FBI/DOJ

9
Barack B. Shelnik
Special Counsel to the
Assistant Attorney General
Criminal Division
John J. McDermott
Deputy Associate Director
Federal Bureau of Investigation
U. S. VS. L. BARNICK GRAY III, ET AL

6-5-78 4-1

FEDERAL GOVERNMENT
W

In connection with our review of FBI files in an effort to locate materials called for in the informal discovery agreement between the Government and defense attorneys in captioned matter, we have located a reference to a document which was furnished to the office of James A. Wilderother, who was then Associate Deputy Attorney General. This document was part of a series of documents taken by the FBI from the office of Neil Krogh, Jr., at the Department of Transportation. We believe the document, which is described as a three-page memorandum for the President's file dated August 23, 1971, captioned "Presidential meeting with the Attorney General, Director Hoover, Messrs. Ehrlichman and Krogh, May 20, 1971," may be significant in connection with this matter. The Bureau did not retain a copy of this document or any documents taken from Krogh's office.

Our belief that the document may be significant is prompted by Mr. Krogh's involvement in a liaison capacity between the Bureau and the White House in connection with domestic intelligence matters. This role is highlighted by Krogh's advising our liaison agent on March 5, 1970, that the President wanted us to use technical surveillances and other sophisticated techniques in connection with the investigation of various organizations, including the Students for a Democratic Society.

REC-110

An additional factor, which would indicate that the document might be significant, is that we know, based on a memorandum from Mr. Hoover dated May 27, 1971, that the President had called him on May 26, 1971, in connection with the slaying of two police officers in New York and, according to Mr. Hoover's memorandum, said, "He wanted to

MAILED 7
JUN 5 1978
FBI

Assoc. Dir. _____
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Dep. AD Inv. _____
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Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

- 1 - Mr. McDermott (Enclosures)
1 - Mr. Bassett (Enclosures)
1 - Mr. Daly (Enclosures)
1 - Mr. Tierney (Enclosures)

PVD:dmd QMD
(8)

MAIL ROOM ☒

8/31
JUN 7 1978

(SEE NOTE PAGE 2)

ENCLOSURE

Greenberg/Gray-5367

FBI/DOJ

8 4 SEP 14 1978

Special Counsel to the
Assistant Attorney General
Criminal Division

make certain we didn't pull any punches in going all out in gathering information, particularly intelligence information in this situation in New York." Since it would appear the President's conversation with the Director took place the same date as the meeting described in the memorandum in Krogh's possession, it is possible there may be some relationship between the two.

In order to assist you in locating the document in question, I am enclosing a copy of the Washington Field Office airtel to the Director dated April 15, 1974, and letterhead memorandum which shows the delivery of the materials in question. We are not in a position to say whether or not other materials described in the inventory attached to the airtel have relevance to captioned matter, and perhaps a review should be made of those, also.

Enclosures (2)

1 - Mary C. Lawton (Enclosures - 2)
Deputy Assistant Attorney General
Office of Legal Counsel

1 - Robert Kauch (Enclosures - 2)
Deputy Assistant Attorney General
Criminal Division

NOTE: Unsuccessful attempts were made to locate copies of the materials furnished to Wilderotter by communication with the Washington Field Office, as well as a review of Headquarter's files. Based on these reviews, we have learned that all copies were furnished to Wilderotter and nothing retained by the Bureau.

APPROVED:

Director

Assoc. Dir.

Dep. AD Adm.

Dep. AD Inv.

Adm. Serv.

Crim. Inv.

Ident.

Intell.

Laboratory

Legal Coun.

Plan. & Insp.

Rec. Mgnt.

Tech. Servs.

Training

Public Affs. Off.

FBI

Date: 4/15/74

Transmit the following in _____
(Type in plaintext or code)

Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI (65-74060)

FROM: SAC, WFO (65-11613) (C)

ATTN: INTL

MC LEX

Reference is made to Bureau call from Supervisor [redacted] Division 5, instructing that the material obtained from EGIL KROGH, JR. be delivered to the office of Mr. JAMES A. WILDERROTTER, Room 4208, U. S. Department of Justice, for appropriate disposal.

Attached are 3 copies of an LHM concerning this matter. Two copies of the LHM were delivered with the EGIL KROGH, JR. material to Mr. WILDERROTTER's office on 4/15/74.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

REC-16

2 - Bureau (Enc. 5)
1 - WFO

CJJ:jak
(3)

Approved: _____
Special Agent in Charge

Sent _____
Government Printing Office

62-118045-20
ENCLOSURE

Greenberg/Gray-5369

Dep. Atty. Gen. _____
Dep. Asst. Dir. _____
Asst. Dir. _____
Admin. _____
Dep. Sec'y _____
Ext. Affairs _____
Files & Com. _____
Gen. Inv. _____
Ident. _____
Inspection _____
Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

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b7C



UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

Washington, D. C. 20535

April 15, 1974

In Reply, Please Refer to
File No.

DISPOSITION OF UNITED STATES GOVERNMENT
DOCUMENTS LAST IN POSSESSION OF

When Egil Krogh, Jr. resigned from the Department of Transportation (DOT), he left in his office a number of documents. The Washington Field Office of the FBI was directed to obtain the material and to review it. b6
b7C

The data generally falls into three categories: White House material which Krogh took to the DOT, DOT material and personal material of Egil Krogh. These papers are in nine cartons and are submitted to the Department of Justice for disposal.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside.

65-749060-4176
ENCLOSURE 2-118045-20
ENCLOSURE

Greenberg/Gray-5370

FEDERAL BUREAU OF INVESTIGATION

6/21/73

Date of transcription

Property which has been in the custody of EGIL KROGH, located in the United States Department of Transportation security file cabinet number 275, Room 10200D, United States Department of Transportation, was examined and contained the following:

A folder labeled "3-21-72 Gov. SHAFER's mtg. w/President to present Mari. Comm. Report" contained:

Two page memorandum for the President's file, dated March 27, 1972 captioned "Meeting with Gov. SHAFER to receive copy of marijuana report".

A one page memorandum dated March 22, 1972 to EGIL KROGH from [redacted] requesting memorandum on President's meeting with Governor SHAFER.

Two page memorandum for the President dated March 20, 1972 captioned "Meeting with RAYMOND P. SHAFER, Chairman, Marijuana Commission, March 21, 1972, 5:00 p.m. (10 minutes)" from BUD KROGH.

Two page document captioned "Background information on the National Commission on Marijuana and Drug Abuse".

Two page memorandum dated March 17, 1972 to JOHN EHRLICHMAN from BUD KROGH captioned "Response to Marijuana Commission Report".

Two page (yellow copy) memorandum dated March 21, 1972 for RON ZIEGLER from BUD KROGH captioned "Marijuana Commission Report".

One page document captioned "President's Schedule, Tuesday - March 21, 1972".

Three pages of handwritten notes on legal size paper captioned "Meeting - R.N. - Gov. SHAFER, EHRLICHMAN, KROGH, 5:05 p.m. - Tues., 22 Mar. 72".

Material Reviewed

Interviewed on 6/15/73 at Washington, D. C. File # 65-11613

by SA [redacted] :bjh/tsm Date dictated 6/18/73

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This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

ENCLOSURE

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

Greenberg/Gray-5371

DATE 04-09-2009 BY 65179 dmh/baw/sls

One page document addressed to "RON" from "BUD" concerning agreement by the President and Gov. CHAFER at meeting.

A folder labeled "President's Meeting with U.S. Attorneys 2/7/72", contained:

Two page memorandum to the President dated February 3, 1972 from BUD KROGH captioned "Meeting with 30 U.S. Attorneys February 7, 1972, 11:30 a.m. (15 minutes)". A one page list of participants was attached.

Three page document captioned "Thank you, Mr. President" dealing with the narcotics problem.

Two page White House press release dated January 28, 1972 on drug abuse.

One page White House press release dated January 28, 1972 on drug abuse.

One page White House press release dated January 28, 1972 contained executive order on "Concentration of law enforcement activities relating to drug abuse".

A folder labeled "[redacted]" contained:

1971.

Three page memorandum for [redacted] dated August 26,

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One page, handwritten notes captioned "From [redacted]"

A folder labeled "[redacted]" contained:

Two pages containing handwritten notes on legal size paper with caption "[redacted]".

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Report by [redacted] captioned "Key Factors Enhancing the Morale of the Vietnamese Communist Soldier", dated March, 1972.

A folder labeled "9/28/71, BX's meeting with Attorney General", contained:

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Two pages of handwritten notes on legal size paper.

A folder labeled "P trip to N.Y. 3/20/72 - drugs" contained:

[Two page uncaptioned, undated document beginning with the words "In spring of 1971".]

One page memorandum for the President dated March 17, 1972 captioned "New York meeting with drug abuse law enforcement officials, March 20, 1972, 11:40 a.m. (20 minutes)" with one page list of participants attached.

One page memorandum for the President dated March 17, 1972 captioned "Meeting with Governor ROCKEFELLER, March 20, 1972, 12:05 p.m. (15 minutes)" with one page list of participants attached.

One page memorandum for the President dated March 17, 1972 captioned "Meeting with Federal Undercover Narcotics Agents, March 20, 1972, 12:25 p.m. (5 minutes)".

One page memorandum for the President dated March 17, 1972 captioned "Tour through JFK Airport's customs facilities, March 20, 1972, 1:10 p.m. (15 minutes)".

Four page memorandum for Cabinet Committee on International Narcotics Control dated March 17, 1972.

Six page memorandum for the President dated March 18, 1972 captioned "Meeting with Cabinet Committee on International Narcotics Control, March 20, 1972, 3:30 p.m. (1 hour)".

Seven page memorandum dated March 18, 1972, 11:30 a.m. captioned "Guest and Staff Detailed Schedule, President's trip, President's visit to New York City to inspect Federal Narcotics Enforcement Measures".

Three page document captioned "Suggested impromptu remarks for President at conclusion of New York trip".

Three page White House press release dated March 20, 1972 captioned "The White House, President NIXON's New York trip, fact sheet".

Seven page document captioned "President NIXON's New York trip, fact sheet".

A folder labeled "P Mtg. w/Patrolman of the Year - 10/24/72", contained:

Two page memorandum for the President dated October 22, 1972 captioned "Meeting with Patrolman of the Year, October 24, 1972, 11:30 p.m. (10 minutes)" with two page list of participants attached.

One page memorandum to Mr. BUD KROGH dated October 20, 1972 captioned "Policeman of the Year".

A folder labeled "RN meeting - May 26, 1971", contained:

Three page memorandum for the President's file, dated August 23, 1971 captioned "Presidential meeting with the Attorney General, Director HOOVER, Messrs. EHRLICHMAN and KROGH, May 26, 1971".

A folder labeled "Mtg. w/RN 10/29/71 (Boy Scouts - Silver Buff.)", contained:

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Four page memorandum for the President dated October 28, 1971 captioned "Meeting with the Boy Scouts of America, October 29, 1971, 12:00 noon (15 minutes)".

A folder labeled "RN's mtg. w/Gov. SCHAFER - Sept. 9, 1971", contained:

Seven page memorandum for BUD KROGH dated September 3, 1971 captioned "Governor SCHAFER's meeting with the President".

One page memorandum to EGIL KROGH dated September 10, 1971 from [redacted].

Two page memorandum (green copy) for the President's file dated September 10, 1971 captioned "Meeting with Honorable RAYMOND SHAFER, Thursday, September 9, 3:00 p.m.".

Two page memorandum (yellow copy) of above memorandum for the President's file dated September 10, 1971.

A folder labeled "Meeting with RN June 14, 71", contained:

Six page memorandum for the President's file dated July 26, 1971 captioned "Meeting with Ambassadors and State Department officials on International Narcotics Trafficking, June 14, 1971, 10:10 a.m. - 11:45 a.m.".

One page memorandum for B. KROGH dated June 18, 1971 from the Staff Secretary with copy of above six page memorandum for the President's file dated July 26, 1971.

A folder labeled "Mtg. w/President - narcotics - Dec. 6, 1971" contained:

Three copies of four page memorandum for the President (undated) captioned "Meeting on narcotics, December 6, 1971, 3:30 p.m. (20 min.)".

Five copies of three page memorandum for the President dated December 4, 1971, captioned "Meeting on narcotics, December 6, 1971, 3:30 p.m. (20 min.)".

A folder labeled "Mtg. w/President, Nov. 2, 71 cab. mem. on exec. reorg." contained:

Four page memorandum for the President's file dated November 3, 1971 captioned "Meeting with cabinet members on executive reorganization".

Eight copies of three page memorandum for the President dated November 2, 1971 captioned "Meeting with cabinet members, November 2, 1971, 3:30 p.m. (15 minutes)".

Three page document (undated) captioned "President's Departmental Reorganization Program, President's meeting with Departmental Secretaries, Tuesday, November 2, 1971".

One page document, undated, captioned "President's Departmental Reorganization Program, comments of Director SHULTZ to the Press after meeting with the President, Tuesday, November 2, 1971".

Two page document dated November 2, 1971 captioned "President's Departmental Reorganization Program, fact sheet".

One page document captioned "Transfers to the proposed Department of Community Development".

One page document captioned "Proposed Department of Community Development".

A folder labeled "RN meeting with 8 - June 8, 1970" contained:

One manilla folder, labeled as above, which contained:

Five pages of handwritten notes on legal size paper.

A folder labeled "Mtg. w/P May 27, 71 JDE/bk, drug sit. military", contained:

One page memorandum dated June 1, 1971 for B. KROGH from the Staff Secretary enclosing a memorandum for the President's file dated November 5, 1971, captioned "Meeting with JOHN EHRLICHMAN and BUD KROGH May 27, 1971".

A copy of above memorandum for the President's file dated November 5, 1971.

A folder labeled "P mtg. w/Mayor WASHINGTON and Chief WILSON 11:00 a.m., 10/13/71" contained:

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Four page memorandum for the President dated October 12, 1971 captioned "Meeting with Mayor WALTER WASHINGTON and Chief WILSON on October 13, 1971, 11:00 a.m. (30 minutes)".

One page memorandum for Mr. EGIL KROGH, JR. from [redacted] dated September 28, 1971 and captioned "Mayor WASHINGTON and Chief WILSON".

One page memorandum to [redacted] from H. R. HALDEMAN dated September 15, 1971 suggesting Mayor WASHINGTON and Chief WILSON be invited to meeting with the President.

Two copies of a one page memorandum for [redacted] dated July 27, 1971 captioned "Mayor WASHINGTON/Chief WILSON, crime report to RN".

One page memorandum for BUD KROGH dated July 23, 1971 from [redacted] regarding proposed meeting with Mayor WASHINGTON and Chief WILSON and report on crime reduction.

Three page memorandum for BUD KROGH dated August 23, 1971 captioned "D.C. Crime".

One page memorandum for Mr. EGIL KROGH, JR. from [redacted] dated September 28, 1971 captioned "Mayor WASHINGTON and Chief WILSON".

Three page memorandum for the President (rough draft), undated, captioned "Meeting with Mayor WALTER WASHINGTON and Chief WILSON, October 13, 1971, 11:00 a.m. (30 minutes)".

One copy of a magazine titled "Metropolitan Police, D.C., 1971".

One page of newspaper clippings dated October 13, 1971.

One copy of a periodical captioned "Food World" dated July, 1971.

One page memorandum for CHARLES COLSON captioned "D.C. Environmental Services Corps".

Two page document, undated, captioned "Remarks by Mayor WALTER E. WASHINGTON, October 8, 1971". b6 b7C

Two page press release dated October 8, 1971 under the letterhead of the Department of Environmental Services, District of Columbia Government.

Two page memorandum to Administration and Office Heads, dated September 17, 1971 captioned "Environmental Service Corps".

Five page document captioned "A prospectus for the Environmental Service Corps".

Two photographs (Mayor WALTER WASHINGTON pictured in both).

Two copies of a two page memorandum for the President's file, dated October 21, 1971 captioned "Meeting with Mayor WASHINGTON and Chief WILSON".

Two page document captioned "Schedule Proposal", dated September 17, 1971, from BUD KROGH to

A folder labeled "President's radio speech - Crime and Drug", contained:

Three copies of a document captioned "Radio speech - Crime and Drugs", dated October 4, 1972 and described as "Second draft".

One copy of the above document, fourth draft.

One copy of above document, fifth draft.

A folder labeled "P mtg. with POWELL and REHNQUIST", 12-22-71" contained:

Two copies of a three page memorandum for the President dated December 21, 1971 captioned "Meeting with POWELL and REHNQUIST, December 22, 1971, 11:00 a.m. (15 minutes)".

Two copies of a two page document captioned "Schedule proposal, date December 13, 1971" covering presentation of Supreme Court appointments to POWELL and REHNQUIST.

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A folder labeled "[redacted]", contained:

Four page memorandum for BUD KROGH dated December 1, 1971 captioned "[redacted] Esq.". b6
b7C

A folder labeled "Sept. 21, 72 - P trip to Laredo, Texas", contained:

One booklet, labeled "Customs" and described within as a "Briefing Book, President NIXON, Laredo District".

One cover sheet from Bureau of Narcotics and Dangerous Drugs enclosing a copy of a teletype stamped "Sept. 21, 1972", "Confidential", concerning Heroin Seizure in Guadalajara.

One printed page, undated, uncaptioned, beginning with the words "Source's ranging from news reports".

One page White House press release dated September 22, 1972 concerning the President's visit to Laredo, Texas.

One page White House press release dated September 22, 1972 captioned "Statement by the President".

Three page document dated September 21, 1972 captioned "Statement by the President: Laredo visit".

Twelve page memorandum for the President dated September 19, 1972 captioned "Drug Strategy".

WFO 65-11613

9

Thirteen page document dated September 21, 1972, 4:00 p.m., captioned "Guest and Staff Detailed Schedule, Presidential trip, visit to Laredo, Rio Grande, Harlingen and San Antonio, Texas".

Five page document dated September 21, 1972 captioned "Fact sheet: Laredo customs facility".

One page memorandum for BUD KROGH dated September 21, 1972 and captioned "Presidential visit to South Texas, September 22 - 23, 1972".

Three page White House press release dated September 22, 1972 captioned "Remarks of the President at the United States Customs Border Station".

Five pages containing teletype messages on drug related subjects.

One page of handwritten notes on legal size paper.

Two page document dated September 20 captioned "Fact sheet: Laredo customs facility".

One page, undated, memorandum for [redacted] captioned "P's trip to Laredo".

Two page undated document captioned "President NIXON's Laredo, Texas visit, fact sheet".

One page memorandum dated September 20, 1972 for a [redacted] and classified "Administratively Confidential". b6 b7C

Two page, undated, uncaptioned document beginning with the words "In Washington, D. C. I've met with many organizations or police".

Two page (Xerox copy) of news items on narcotics war of Nuevo Laredo.

A folder labeled "Mtg. w/P 9/7/72 - Internat. Conf. of Police Associations", contained:

One page memorandum for [redacted] dated May 12, 1972 captioned "International Conference of Police Associations".

Five page memorandum dated May 3, 1972 for [redacted] captioned "International Conference of Police Associations".

Seven copies of a two page memorandum for the President, dated September 6, 1972 captioned "Meeting with Police Association Representatives, September 7, 1972, 12:00 noon (10 minutes)".

One page memorandum for the President's file dated September 8, 1972 captioned "Presidential meeting with the International Conference of Police Associations, September 7, 1972".

One page memorandum to EGIL KROGH, JR. dated September 8, 1972 captioned "Memorandum for the President's file".

One page memorandum for Mr. BUD KROGH dated September 4, 1972, captioned "International Conference of Police Associations".

One page memorandum for [redacted] dated November 1, 1971 captioned "Proposed Presidential meeting with International Conference of Police Associations".

Five page document time stamped "72 Sept 5:00 p.m. 12:27" to [redacted] from [redacted]

Two pages containing handwritten notes on legal size paper which related to police matters.

One copy of a bill (S. 2087) to Amend Omnibus Crime Control and Safe Streets Act of 1968.

Two pages (Xerox copies) of the Congressional Record - Senate, September 5, 1972, containing information about "Public Safety Officers' Benefits Act of 1972".

One page letter to EGIL KROGH, JR. dated September 12, 1972 from [redacted]

b6
b7C

One page, under the letterhead of the International Conference of Police Associations dated September 6, 1972.

WFO 85-11013

11

One empty manila folder labeled "ICPA - Sept. 7, 1972, Presidential meeting".

A folder labeled "9/8/72 mtg. w/ [redacted] - Attorneys and Narc. Law", contained:

One legal size pad of paper containing several pages of handwritten notes.

Two page memorandum for the President's file dated September 13, 1972 captioned "Meeting with [redacted] Attorneys, 10:45 a.m., September 6, 1972".

Four page memorandum for the President dated September 8, 1972 and captioned "Meeting with Drug Enforcement Attorneys, September 8, 1972, 10:30 a.m. (10 minutes)".

Ten page White House press release dated September 8, 1972 captioned "The White House, press conference of MYLES AMBROSE, Special Assistant Attorney General and Director, Office for Drug Abuse Law Enforcement".

A folder labeled "Drug abuse law enforcement mtg. w/P, 7/24/72", contained:

Two page memorandum for the President's file dated August 9, 1972 captioned "Meeting with law enforcement officials on Monday, July 24, 1972, 10 - 12:24 a.m.".

One page memorandum to Mr. EGIL KROGH, JR. dated July 24, 1972 from [redacted] b6 b7c

One page, undated, captioned "Informal remarks by the President at Narcotics Law Enforcement Briefing, July 24, 1972".

One page of handwritten notes on legal size paper.

Numerous fliers related to Federal Narcotics Enforcement.

Nine page memorandum for the President dated July 24, 1972 captioned "Meeting with Federal Drug Enforcement officials, July 24, 1972, 10:30 a.m. (10 minutes)".

WFO 4-11-72
12

Three page White House press release dated July 28, 1972 captioned "The White House, Drug Abuse Law Enforcement Program, Fact sheet".

Three page document, undated, captioned "Drug Abuse Supplemental Fact Sheet".

A folder labeled "P Drug activities - March 20, 21, 22, 1972", contained:

Five page memorandum to [redacted] from [redacted] dated March 1, 1972 (no caption).

A folder labeled "National Advisory Council - mtg. w/P 10/17/72", contained:

One copy "Drug Abuse Prevention Program Briefing Book".

Eight page document, undated, captioned "Remarks of EGIL KROGH, JR., Executive Director, Cabinet Committee for International Narcotics Control, International Narcotics Control Conference, Department of State".

b6
b7c

Two page memorandum for the President, dated October 16, 1972 and captioned "Meeting with National Advisory Council for Drug Abuse Prevention, October 17, 1972, 11:30 a.m. (10 minutes)".

Two page undated, uncaptioned, document beginning with the words "It's a pleasure to be able to talk with you this morning" and dealing with drug abuse.

One page memo, undated, captioned "Suggested KROGH talking points".

One copy of the "Drug Abuse Office and Treatment Act of 1972".

Two copies of a two page document dated October 17, 1972 captioned "National Advisory Council for Drug Abuse Prevention".

Two page memorandum for Mr. KROGH dated October 17, 1972 and captioned "Presidential remarks" submitted by [redacted]

Four page White House press release dated October 15, 1972 captioned "The White House, Text of a Radio Address by the President on Crime and Drug Abuse".

Two pages containing handwritten notes on legal size paper.

One page memorandum for Mr. BUD KROGH dated October 16, 1972 from [redacted] and captioned "National Advisory Council on Drug Abuse Prevention".

A manilla folder labeled "P letter (1/9/73) to Met. Wash. B of Tr.", contained:

One page (carbon copy) of a letter dated January 9, 1973 to Mr. WALTER MC ARDLE, President, Metropolitan Washington Board of Trade. The carbon copy was unsigned.

b6
b7C

A folder labeled "RN mtg. June 17, 1971", contained:

One page memorandum to B. KROGH from the Staff Secretary dated June 22, 1971.

Three copies of one page memorandum for the President's file dated August 31, 1971 and captioned "Bipartisan Congressional Briefing on Drug Message, June 17, 1971, 8:00 a.m.".

Director, Central Intelligence Agency

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

delivered
BY LIAISON

6/8/78 JW

FEDERAL GOVERNMENT

Enclosed is a package of copies of documents from FBI records together with a standard form cover sheet listing each document and explaining, in general terms, the necessity for referring these documents to your agency for your review.

This office is now engaged in reviewing FBI records to be provided to defense attorneys during discovery and possibly for later use by either the prosecution or the defense at trial. The prosecution involved is that announced on April 10, 1978, in which the former Acting Director and two other retired FBI officials have been charged with violating civil rights by surreptitious entries.

We must be able to determine from your reply the following: 1. Whether or not the document is properly classified under the current standards of Executive Order 11652. 2. What portions, if any, your agency feels should not be given to defense counsel during discovery for any of the following three reasons: a. Disclosure would compromise an ongoing investigation. b. Disclosure would compromise an informant or source. c. Disclosure would constitute undue embarrassment or damage to an unrelated third party. 3. What portions of the document, although accessible during discovery, should not be used in open court, eg., classified material not falling into any category under paragraph two, above, which may be exhibited to defense attorneys possessing proper clearances but which should not be used in open court. Marking material which remains classified denoting the classification level down to at least the paragraph level will normally suffice.

You may make and retain or return all copies of this correspondence, the referral form, and the documents, at your option.

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

1 [redacted]
1 [redacted]

b6
b7C

ENCLOSURE
JLT:dmd QMD
(4)

MAIL ROOM ☐

SECRET

Material Attached

(SEE NOTE PAGE 2)

74 AUG 31 1978

Greenberg/Gray-5384

FBI/DOJ

8 4 SEP 1978

Director, Central Intelligence Agency

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Enclosure

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Department of State

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEN
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

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Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

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1 - []
1 - []

b6
b7C

(SEE NOTE PAGE 2)

JLT:dmd dmd
(4) ENCLOSURE

SECRET
Material Attached

DELIVERED BY LIAISON
6/8/78

MAIL ROOM ☐

Greenberg/Gray-5389

8 4 SEP 14 1978

FBI/DOJ

Department of State

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Treasury Department
Bureau of Customs

6-8-78

4
2
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JHE
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

4-1
BY LIAISON

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REC-102 - 118045 - 23
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AUG 31 1978

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
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Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

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this correspondence, the referral form, and the documents,
at your option.

2 EN [Redacted Box]
1 - [Redacted Box]

b6
b7C

DELIVERED BY LIAISON
DATE 6/8/78
(SEE NOTE PAGE 2)

JLT:dmd qmd
(4)

MAIL ROOM ☐

Greenberg/Gray-5397

8 4 SEP 14 1978

FBI/DOJ

Treasury Department
Bureau of Customs

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: b6 b7C

Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs ☒ Postal _____
Army _____ Navy _____ Air Force _____ Other _____

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
 b6 b7C	105-178669	—	5/23/69

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
Treasury Department
Bureau of Customs*



~~SECRET~~ / ~~CONFIDENTIAL~~ / UNCLASSIFIED

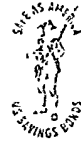
MATERIAL ATTACHED

Greenberg/Gray-5399

62-118045-23
ENCLOSURE



TREASURY DEPARTMENT
BUREAU OF CUSTOMS
BUFFALO, N.Y.



May 23, 1969

b6 Per FBI
b7C

INV 6-702 WU

Neil Welch
Special Agent in Charge
Federal Bureau of Investigation
U. S. Courthouse Building
Buffalo, New York 14202

Dear Sir:

On May 19, 1969 [redacted] New Jersey, DO [redacted] at [redacted] New York, N. Y., DOB [redacted] entered the United States at the Rainbow Bridge, Niagara Falls, New York, in a 1965 blue Chevrolet convertible, N.Y. Plate 1C5506, owned by [redacted] West, New York, N. Y. (not a passenger).

A search of the vehicle resulted in the finding of a quantity of marihuana and a marihuana pipe. Both subjects were turned over to Niagara Falls, New York Police authorities for prosecution under the narcotic laws of New York State.

Your Agent [redacted] at the writer's request, responded to the bridge as I believed [redacted] personal note book contained intelligence of the SDS Movement. The pages of the book were duplicated at the bridge that same evening.

On May 20, 1969 your office was furnished 52 Xerox pages of duplicated notes from [redacted] book. Please advise if I can be of further assistance.

Sincerely yours,

FLENNOR J. MURPHY
Customs Agent in Charge

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

cc: F.B.I. Washington, D.C.

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 27 1969	
FBI - WASH. FIELD OFFICE	

ENCLOSURE

REPLY TO: CUSTOMS AGENT IN CHARGE, P.O. BOX 864, BUFFALO, NEW YORK, 14205

ENCLOSURE

Greenberg/Gray-5400

United States Postal Service

6-8-78

4
28
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6388, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

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Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

1 - [redacted]
1 - [redacted]

b6
b7c

JLT:dmd
(4)
ENCLOSURE
MAIL ROOM ☐

~~CONFIDENTIAL~~
Material Attached

62-118045-24
4-14
14 AUG 31 1978
(SEE NOTE PAGE 2)

DELIVERED BY LIAISON
DATE 6/8/78

Greenberg/Gray-5401

FBI/DOJ

8 4 SEP 14 1978

United States Postal Service

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: _____
Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal ☒
Army _____ Navy _____ Air Force _____ Other _____

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic

File #

Serial #

Date

88-50185

62-2

11-1-78

b6 Per FBI
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs



~~SECRET~~ ~~CONFIDENTIAL~~ ~~UNCLASSIFIED~~
MATERIAL ATTACHED

ENCLOSURE

Greenberg/Gray-5403

DECLASSIFICATION AUTHORITY DERIVED FROM:
FBI AUTOMATIC DECLASSIFICATION GUIDE
DATE 03-31-2009

FBI

~~CONFIDENTIAL~~

Date: 12/6/74

Transmit the following in _____

(Type in plaintext or code)

Via AIRTEL

AIR MAIL

(Priority)

TO:

DIRECTOR, FBI

FROM:

SAC, ALBANY

SUBJECT:

[REDACTED] aka

b6 Per FBI
b7C

FUGITIVE (WEATHFUG)
IO #4363
UFAP-MOB ACTION-HOMICIDE
POSSESSION OF DANGEROUS WEAPON
(00: CHICAGO)
(Bufile 88-50195)
(Chicago 176-1085)
(ALfile 88-5366) (P)

[REDACTED] aka

b6 Per FBI
b7C

SM-WEATHERMAN
(00: CHICAGO)
(Bufile 100-449781)
(Chicago 100-46370)
(ALfile 100-23674) (P)

WEATHFUG (MAIL COVERS)
(00: CHICAGO)
(Bufile 176-1594)
(Chicago 176-1677)
(ALfile 176-41)

Re: Albany airtel to Bureau, 11/25/74.

6-Bureau (2-88-50195)
(2-100-449781)
(2-176-1594)

6-Chicago (2-176-1085)
(2-100-46370)
(2-176-1677)

7-Albany (2-88-5366)
(2-100-23674)
(2-176-41)
(1-176-41 Sub 3)

RAM:bah
(19)

CLASSIFIED BY 1482 SJM
EXEMPT FROM GDS CATEGORY 2
DATE OF DECLASSIFICATION INDEFINITE
Pg 2 Para 1, 3

Approved: 191972 Special Agent in Charge

Sent

M

Per

~~CONFIDENTIAL~~

U.S. Government Printing Office: 1972 - 455-574

ENCLOSURE

Greenberg/Gray-5404

UNREC COPY FILED IN

AL 88-5366
100-23674
176-41

~~CONFIDENTIAL~~

For the information of FBIHQ and Chicago, Albany is in receipt of a letter from Postal Inspector [redacted] Boston, Massachusetts dated 12/2/74 which advises that the Albany mail cover request submitted on 10/25/74 on [redacted] was actually put into effect on 11/18/74 and will conclude 12/18/74. [redacted] returned Albany's letter of 11/25/74 which requested an additional 30 day mail cover on [redacted] and [redacted] noted that mail covers can not be authorized during the period between December 4 and December 25, 1974. In view of this and based on the fact that no information of value has been obtained to date in regards to mail covers on [redacted] Albany will not submit any additional mail cover requests on her at this time, UACB or Chicago. (X)

For information of Chicago, on 12/5/74, information was received from a confidential source who is in a position to furnish such information, that [redacted] was in receipt of a letter from an unknown individual postmarked 11/25/74, at Stratford On Avon, England. For further information, Albany investigation re [redacted] deemed that as of 12/2/74 her mail was to be forwarded to [redacted] Vermont and investigation is currently being conducted re this address.

b6 Per FBI
b7C

As noted in re airtel, the mail cover request on [redacted] for mail in care of [redacted] submitted 11/5/74 will soon expire and based on United States Post Office mail cover restrictions as set forth above, Albany is not requesting an additional 30 day mail cover at this time. Albany notes that the Boston Division currently has a mail cover on [redacted], Massachusetts and he continues to receive mail at this address as set forth in Boston airtel to Bureau dated 11/27/74 under [redacted] caption. As indicated in this airtel one [redacted] from [redacted] New York was in contact with [redacted] by letter postmarked 10/15/74 and Albany feels that this letter would not have been directed to [redacted] at this address if they were operating a mail drop for him at [redacted]. In view of this, Albany is submitting no additional mail cover requests on [redacted] at this time. UACB or Chicago. (X)

b6 Per FBI
b7C

Investigation at Albany re [redacted] and WEATHFUGS is continuing.

b6 Per FBI
b7C

CONSIDER [redacted] ARMED AND DANGEROUS
CONSIDER WEATHERMAN DANGEROUS

b6 Per FBI
b7C

~~CONFIDENTIAL~~

United States Department of State
Passport Office

6-8-78

4
no
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEN
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

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Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

1 - [redacted]
1 - [redacted]

b6
b7C

JLT:dmd
(2) ENCLOSURE
MAIL ROOM ☐

REC-110

62-118045-25
14 AUG
(SEE NOTE PAGE 31) 1978

DELIVERED BY LIAISON

Greenberg/Gray 5406

FBI/DOJ

8 4 SEP 14 1978

United States Department of State Passport Office

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Enclosure

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: _____ b6

Telephone: 324-3542 b7C

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other USSD - Passport

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Documents:

File Topic	File #	Serial #	Date
<div style="border: 1px solid black; width: 200px; height: 20px;"></div>	176-1700	358	4/26/78

b6
b7C

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
U.S. Department of State
Passport Office*



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED
MATERIAL ATTACHED

62-118045-25
ENCLOSURE Greenberg/Gray-5408

UNITED STATES GOVERNMENT

Memorandum

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

TO : ACTING DIRECTOR, FBI (176-1700)

DATE: 4/26/73

FROM : SAC, WFO (176-98)(P)

SUBJECT: [REDACTED] aka b6
FUGITIVE (WEATHFUG) b7C
IO #4358
ARL - CONSPIRACY
(OO:CG)

Re Bureau airtel to WFO, 3/7/73.

Enclosed for New York, Chicago, and Milwaukee is one copy each of photograph of [REDACTED]

b6
b7C

A review of United States Department of State, Passport Office files by SA [REDACTED] on 4/23/73, disclosed that [REDACTED] was issued passport number [REDACTED] on 2/1/68, at New York, New York, for proposed travel to France.

b6
b7C

She listed purpose of the travel being "to visit sick father". In her application, dated 2/1/68, at New York, New York, she stated she intended to depart from New York via air on approximately 2/3/68, for a stay abroad of approximately one month.

This individual stated that she was born on [REDACTED] at [REDACTED]. She gave her permanent residence as [REDACTED] Woodside, New York and listed her parents as [REDACTED] at the same address.

b6
b7C

- ② - Bureau
2 - New York (176-403)(Enc. 1)
1 - Chicago (176-1300)(Enc. 1)(Info)
1 - Milwaukee (Enc. 1)(Info)
1 - WFO

WTT:sup
(7)

Greenberg/Gray-5409



Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

ENCLOSURE

WFO 176-98

The following description of this individual appears
in the reviewed records:

Height:	5 feet 8 inches
Hair:	Brown
Eyes:	Blue
Occupation:	Student

6-8-78

BY LILSON

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 Dep. AD Inv. _____
 Asst. Dir.:
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 Intell. _____
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 Legal Coun. _____
 Plan. & Insp. _____
 Rec. Mgnt. _____
 Tech. Svcs. _____
 Training _____
 Public Affs. Off. _____
 Telephone Rm. _____
 Director's Sec'y _____

JLT:dmd

(4)

MAIL ROOM ☐

~~CONFIDENTIAL~~
~~Material Attached~~

Greenberg/Gray-5411

FBI/DOJ

8 4 SEP 14 1978 L. Treacy, Rm 6888

Department of the Air Force

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Immigration and Naturalization Service

6-8-78

6/1
no
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEN
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

4-1
FEDERAL GOVERNMENT

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Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

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1 - []

b6
b7C

JLT:dmd
(4)

MAIL ROOM ☐

Greenberg/Gray-5416

4-10-78

62-118045-27
(SEE NOTE PAGE 2)

14 AUG 31 1978

DELIVERED BY LIAISON
6/8/78
AKN

FBI/DOJ

8 4 SEP 14 1978

Immigration and Naturalization Service

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

R

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: _____

Telephone: 324-3542

b6

b7C

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other INS

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Documents:

File Topic

File #

Serial #

Date

[Redacted]

b6
b7C

105-178689

—

2/5/73

*Enclosure 6-8-78
Immigration and
Naturalization Service*

Greenberg/Gray-5418

~~CONFIDENTIAL~~ UNCLASSIFIED

MATERIAL ATTACHED

62-118045-27

ENCLOSURE

UNITED STATES DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
6 Frankfurt, Germany

FEB 13 1973

FILE A 11 529 063

DATE: February 5, 1973

IN RE: [REDACTED]

b6
b7C

APPLICATION: Temporary admission to the United States pursuant to section 212(d) (3) (A), Immigration and Nationality Act

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

☒ consular officer

The applicant(s) has (have) been found by a

☐ immigration officer

visa under Section(s) 212(a) (26) of the Act.

Nationality: Stateless	Date and Country of Birth: [REDACTED]	Country of Residence: France	b6 b7C
Occupation: [REDACTED]	Employer: [REDACTED] France.		
Purpose in seeking entry into United States and destination: To transit the United States to and from Jamaica on assignment for his newspaper and will visit his father, [REDACTED] Brooklyn, New York, enroute.			
Plans regarding travel to United States and period of temporary stay: Will enter on or about February 12, 1973, enroute to Jamaica and will transit the United States enroute to France before August 5, 1973.			
Basis for favorable action: The Department of State recommends his admission on humanitarian reasons.			

ORDER: It is ordered that the application be granted for the above indicated purpose, subject to revocation at any time, valid as set forth below.

ENTRY: Two entries during February 1973.

PERIOD OF TEMPORARY STAY: No entry to exceed five days.

BRH:so

105-178671-

Brooks R. Hierstein
Acting Officer in Charge

Form I-194
(Rev. 5-15-71)

Basis of excludability

NOT RECORDED

10 FEB 12 1973

Director, FBI

(For use in Section 212(a) (28) cases only)

Greenberg/Gray-5419

ENCLOSURE

RECEIVED BY LIAISON
ON 6-9-78
L. C. ... J.

Federal Aviation Administration

6-6-78

4
nr
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

FEDERAL GOVERNMENT

4-1

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(JP)

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62-118045-28

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.: _____
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
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Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

1 - [Redacted]
1 - [Redacted]
ENCLOSURE
JLT:dmd
(4)

b6
b7C

[Handwritten signature]

14 AUG 31 1978
(SEE NOTE PAGE 2)

MAIL ROOM ☐

Greenberg/Gray-5420

FBI/DOJ

8 4 SEP 14 1978

Federal Aviation Administration

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: _____

Telephone: 324-3542

b6

b7C

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other _____

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Documents:

File Topic

File #

Serial #

Date

b6
b7C

176-2167

808

8/14/73

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
Federal Aviation Administration*



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED
MATERIAL ATTACHED

62-118045-28

ENCLOSURE

Greenberg/Gray-5422

DELIVERED BY LIAISON
ON 6-14-78
A. J. KENNEDY, JR.

Secretary, Health, Education, and
Welfare

6-8-78

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JRM
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

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Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

1 - ☐
1 - ☐

b6
b7C

JLT:dmd
(4) 2-ENCLOSURE

MAIL ROOM ☐

Greenberg/Gray-5423

8 4 SEP 14 1978

FBI/DOJ

Secretary, Health, Education, and Welfare

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: 5/8/78

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: [redacted] b6 b7C

Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other HRV

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File Topic

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Serial #

Date

[redacted] b6 b7C

118 111

504

11/2/78

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DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
Secretary, Health, Education
and Welfare*



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED

MATERIAL ATTACHED

62-118045-29

ENCLOSURE

Greenberg/Gray-5425

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
 OFFICE OF EDUCATION
 WASHINGTON, D.C. 20202
 PERSONAL DATA ON APPLICANT FACULTY RESEARCH ABROAD
 Doctoral Dissertation Research
 P.L. 87-256, Section 102(h) (6)

FORM APPROVED
 O.M.B. NO. 51-R076

THIS SPACE FOR USE OF THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

FEDERAL BUREAU OF INVESTIGATION
 WASHINGTON, D.C. 20535

ALL FBI INFORMATION CONTAINED
 HEREIN IS UNCLASSIFIED
 DATE 03-31-2009 BY 65179 dmh/baw/sbs

GOVERNMENT EMPLOYEE

TO BE FILLED IN BY APPLICANT

1. NAME (Last, First, Middle, and Maiden-if applicable) [Redacted]		2. BIRTH DATE [Redacted]	3. BIRTH PLACE [Redacted]	
<input checked="" type="checkbox"/> U.S. CITIZEN <input type="checkbox"/> ALIEN		4. IF NATURALIZED, GIVE DATE, PLACE AND COURT. [Redacted]		
5. MARITAL STATUS <input type="checkbox"/> SINGLE <input checked="" type="checkbox"/> MARRIED <input type="checkbox"/> SEPARATED <input type="checkbox"/> DIVORCED <input type="checkbox"/> WIDOWER		6. IF MARRIED, WIDOWED, DIVORCED OR SEPARATED, GIVE FULL NAME AND DATE AND PLACE OF BIRTH OF SPOUSE OR FORMER SPOUSE, AND DATE AND PLACE OF MARRIAGE. INCLUDE WIFE'S MAIDEN NAME. [Redacted] Los Angeles, California Married June 8, 1969 in Berkeley, California Interlocutory Decree of Dissolution of Marriage 6/20/73 Final Decree due October 26, 1973 (California State Superior Court, Alameda Co.)		
7. CITIZENSHIP OF PRESENT SPOUSE U.S.				
8. DATES AND PLACES OF RESIDENCE FOR THE PAST 15 YEARS				
FROM	TO	NUMBER AND STREET	CITY	STATE
1958	1965	[Redacted]	Berkeley	California
1965	1966		Wellesley	Massachusetts
1966	1967		Wellesley	Massachusetts
1967	summer	[Redacted]	Cambridge	Massachusetts
1967	1968		Princeton	New Jersey
1968	summer		Wellesley	Massachusetts
1968	1969	[Redacted]	Wellesley	Massachusetts
1969	Aug. 1970		Princeton	New Jersey
1970	June, 1973		Princeton	New Jersey
1973	present		Princeton	New Jersey

Return to:
 Director of Security
 Dept. of Health, Education & Welfare
 Washington, D.C. 20201

176-1700-176

10. EMPLOYMENT EXPERIENCE

FROM	TO	NAME AND ADDRESS OF EMPLOYER	TITLE AND BRIEF DESCRIPTION OF DUTIES
9/67	1/68	Princeton University	student library assistant checking and shelving
July 71	Aug 71	Princeton University	research assistant cataloguing Japanese prints
Sept 73	present	Princeton University	Assistant Master/ assist in planning and implementation of programs for minority students

11. EDUCATION (List present or most recent degree or training and work back)

NAME OF SCHOOL	ADDRESS	FROM	TO	DEGREES
Princeton University	Princeton, New Jersey	1969	present	M.A., 1973
Wellesley College	Wellesley, Massachusetts	1965	1969	B.A., 1969
Princeton University	Princeton, New Jersey	1967	1968	
Summer language study				
Univ. of California	Berkeley, California	1966	summer	
Harvard University	Cambridge, Massachusetts	1967	summer	
Tokyo Japanese Language School	Tokyo, Japan	1968	summer	
Columbia University	New York, N.Y.	1969	summer	
Middlebury College	Middlebury, Vermont	1970	summer	
Greenberg/Gray-5427				

12. SOCIAL SECURITY NUMBER

b6
b7C

13. MILITARY SERVICE (Past and Present)

SERIAL NUMBER

BRANCH OF SERVICE

FROM

TO

I CERTIFY THAT ALL THE INFORMATION
FURNISHED ON THIS FORM IS COR-
RECT TO THE BEST OF MY KNOWLEDGE

SIGNATURE OF APPLICANT

DATE

b6
b7C

Oct. 9, 1973

6-9-78

United States Coast Guard

6-8-78

4-1

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEE
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

Wew BY LIAISON
FEDERAL GOVERNMENT

Enclosed is a package of copies of documents from
FBI records together with a standard form cover sheet listing
each document and explaining, in general terms, the necessity
for referring these documents to your agency for your review.

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to be provided to defense attorneys during discovery and
possibly for later use by either the prosecution or the
defense at trial. The prosecution involved is that announced
on April 10, 1978, in which the former Acting Director and
two other retired FBI officials have been charged with violating
civil rights by surreptitious entries.

We must be able to determine from your
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properly classified under the current standards of Executive
Order 11652. 2. What portions, if any, your agency feels
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any of the following three reasons: a. Disclosure would
compromise an ongoing investigation. b. Disclosure would
compromise an informant or source. c. Disclosure would
constitute undue embarrassment or damage to an unrelated
third party. 3. What portions of the document, although
accessible during discovery, should not be used in open
court, eg., classified material not falling into any category
under paragraph two, above, which may be exhibited to defense
attorneys possessing proper clearances but which should not
be used in open court. Marking material which remains
classified denoting the classification level down to at
least the paragraph level will normally suffice.

9/2

You may make and retain or return all copies of
this correspondence, the referral form, and the documents,
at your option.

Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

1 - [redacted] b6
1 - [redacted] b7C

JLT:dmd
MAIL ROOM ☐

REC-110 2-118045-30
(SEE NOTE 14 SEP 2) 1978
4-Baly

Greenberg/Gray-5428

FBI/DOJ

8 4 SEP 14 1978

United States Coast Guard

Documents furnished may include both documents originated by your agency, FBI documents quoting information from your agency, and FBI documents concerning an area in which your agency has the primary or overriding interest. Complete documents will normally be furnished in order that you might see the material of interest to you in context. Partial documents will often be furnished when a significant portion of the material does not relate to your agency and is not necessary to understand the material and its context.

We will continue to encounter material of interest to your agency. This letter has been prepared in order to alert you more specifically to the anticipated continuing need for such referrals and to explain the object of the referral. In the future, we plan to make any necessary additional referrals by the use of the attached cover sheet only, if you have no objections.

The Department of Justice has requested us to seek the most expeditious handling of this material which may be possible under the circumstances. Any consideration you may be able to give their request will be appreciated.

Enclosure

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UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: BRENNAN
Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other COAST GUARD

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's material or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informant or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
<div data-bbox="175 1255 521 1339" style="border: 1px solid black; width: 213px; height: 40px;"></div>	b6 b7C 88-50195	309	5/10/73

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

Enclosure 6-8-78
U.S. Coast Guard



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED

MATERIAL ATTACHED

62-118045-30

ENCLOSURE Greenberg/Gray-5430

United States Forest Service

6-8-78

4
nd
Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JEH
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

4-1
w
FEDERAL GOVERNMENT

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Assoc. Dir. _____
Dep. AD Adm. _____
Dep. AD Inv. _____
Asst. Dir.:
Adm. Servs. _____
Crim. Inv. _____
Ident. _____
Intell. _____
Laboratory _____
Legal Coun. _____
Plan. & Insp. _____
Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

1 - [] b6
b7C

2-ENCLOSURE

JLT:dmd 2md
(4)

MAIL ROOM ☐

(SEE NOTE PAGE 2)
AUG 31 1978

4- []
DELIVERED BY LIAISON

6/8/78
Greenberg/Gray-5431

FBI/DOJ

8 4 SEP 14 1978

United States Forest Service

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Enclosure

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Greenberg/Gray-5432



UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: _____

SPECIAL OFFICE FOR DEFENSE DISCOVERY
Room 6888, Hoover Building
Return Atten: BRENNAN
Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy _____ Air Force _____ Other US Forest Service

The documents listed below originated with your agency or contain information received from your agency. They are needed for use in the prosecution or the defense of the case of United States v. L. Patrick Gray, III, et al. Please review your agency's materials or information for compliance with current classification procedures under Executive Order 11652. In addition, please note by listing or bracketing any material which should not be released to the defense because of: (a) ongoing investigations, (b) protection of informants or sources, or (c) release would constitute undue embarrassment or damage to unrelated third parties. The reason for the deletion you recommend should be shown in the margin or on the list by noting the letter a, b, or c, as appropriate.

Documents:

File Topic	File #	Serial #	Date
WEATHERfyg	176-1594	NR-alien 3434	3/8/72

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

*Enclosure 6-8-78
U.S. Forest Service*



~~CONFIDENTIAL~~ UNCLASSIFIED

MATERIAL ATTACHED

62-118045-31

ENCLOSURE

Greenberg/Gray-5433

NR 04 PX CODE

3:57AM NITEL 3-8-72 DLN

TO: DIRECTOR (176-1300)

WFO (176-265)

FROM: PHOENIX (176-18)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

Mr. Tolson _____
Mr. DeLoach _____
Mr. Mohr _____
Mr. Bishop _____
Mr. Casper _____
Mr. Callahan _____
Mr. Conrad _____
Mr. Felt _____
Mr. Gale _____
Mr. Rosen _____
Mr. Sullivan _____
Mr. Tavel _____
Mr. Trotter _____
Tele. Room _____
Mr. Holmes _____
Miss Gandy _____

WEATHFUG.

SN-SDS (WEATHERMAN)

RE WFO TEL TO BUREAU MARCH SIX LAST.

ON MARCH SEVEN LAST,

SPECIAL INVESTIGATIONS UNIT, TUCSON PD, ADVISED KNEW OF NO COMMUNE
LOCATED IN A CAVE IN THE TUCSON AREA. HE ADVISED NO RECORD OF
ANYONE NAMED [REDACTED]

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ON MARCH SEVEN [REDACTED] INVESTIGATOR, U. S. FOREST

SERVICE, CORONADO NATIONAL FOREST, TUCSON, ADVISED THERE ARE

b6
b7C

NUMEROUS GROUPS OF YOUNG HIPPIES CAMPING IN THE CORONADO FOREST,

MANY OF WHOM STAY FOR SHORT PERIODS OF TIME AND PASS ON TO OTHER

PLACES. HE SAID THERE ARE COUNTLESS CAVES AND DESERTED MINE SHAFTS

BUT KNOWS OF NO COMMUNES AS SUCH LIVING IN CAVES. [REDACTED] SAID

THERE IS A COMMUNE OF SORTS LIVING IN AN AREA KNOWN AS CALIFORNIA

END PAGE ONE

REC-66

176-1594
NOT RECORDED

MAY 22 1973

MAY 22 1973

62-118045-31

ENCLOSURE Greenberg/Gray-5434

referred

PAGE TWO

PX 176-18

GULCH NEAR RUBY, ARIZONA. HE SAID THE FOREST SERVICE PICKED UP ABOUT TEN OF THESE PEOPLE IN OCTOBER, NINETEEN SEVENTYONE FOR TRESPASSING AND BROUGHT THEM BEFORE THE U. S. MAGISTRATE, TUCSON, BUT WERE RELEASED AND ARE STILL LIVING IN THIS AREA. ONE CAVE IN THIS AREA IS LOCATED ON PRIVATE LAND JUST OUTSIDE THE NATIONAL FOREST PROPERTY.

ON MARCH SEVEN [REDACTED] FOREST RANGER, NOGALES DISTRICT, CORONADO NATIONAL FOREST, ADVISED HIS DISTRICT IS POCK MARKED WITH CAVES AND ABANDONED MINE SHAFTS AND FROM TIME TO TIME THERE ARE HIPPIES AND CAMPERS WHO STAY IN THEM BUT MOST OF THEM MOVE ON. HE SAID THERE IS A GROUP LIVING IN AN AREA KNOWN AS CALIFORNIA GULCH NEAR RUBY, ARIZONA AND THEY HAD BOUGHT SOME PRIVATE LAND IN THE AREA. THERE IS A MINE SHAFT WHICH RUNS ABOUT TWO HUNDRED FEET INTO THE SIDE OF A HILL WHICH THESE PEOPLE USE. HE SAID THIS GROUP MAINTAINS A P. O. BOX ONE SEVEN ONE IN ARIVACA, ARIZONA. HE SAID IT IS LOCATED APPROXIMATELY FIVE TO SEVEN MILES NORTH OF THE U.S. - MEXICO BORDER. HE SAID THERE ARE TWO DIRT ROADS LEADING INTO THE AREA FROM THE NOGALES HIGHWAY AND FROM ARIVACA, ARIZONA. FEASIBILITY OF COVERAGE IN THIS AREA IS BEING EXPLORED. INVESTIGATION CONTINUING. PENDING.

END

Greenberg/Gray-5435

Department of the Navy

6-8-78

FEDERAL GOVERNMENT

Paul V. Daly, Federal Bureau of Investigation
Defense Discovery Special
Room 6888, JHE
U. S. vs. L. PATRICK GRAY III, ET AL
DEFENSE DISCOVERY/CLASSIFIED MATERIAL

BY LIAISON

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Rec. Mgnt. _____
Tech. Servs. _____
Training _____
Public Affs. Off. _____
Telephone Rm. _____
Director's Sec'y _____

JLT:dmd
(4)

MAIL ROOM ☐

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b7C

(SEE NOTE PAGE 2)

14 AUG 31 1978

Greenberg/Gray-5436

FBI/DOJ

8

4 SEP 14 1978

J.L. Taenig, Room 6888

Delivered by Liaison
To NISHP 14 WM, O'Rilly
on 6-7-78

by LAC

Department of the Navy

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UNITED STATES DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535

DATE: 6/8/78

SPECIAL OFFICE FOR DEFENSE DISCOVERY

Room 6888, Hoover Building

Return Atten: BRENNAN

Telephone: 324-3542

To Agency: CIA _____ NSA _____ DOD _____ Customs _____ Postal _____
Army _____ Navy ☒ Air Force _____ Other _____

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Documents:

File Topic	File #	Serial #	Date
weather fug	176-1594	3384	2/27/73

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

Enclosure to 6/8/78
Dept. of Army Newg



~~SECRET/CONFIDENTIAL~~ UNCLASSIFIED

MATERIAL ATTACHED

62-118045-32

ENCLOSURE Greenberg/Gray-5438.

UNITED STATES GOVERNMENT

Memorandum

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 03-31-2009 BY 65179 dmh/baw/sbs

TO : ACTING DIRECTOR, FBI (176-1594)

DATE: 2/27/73

FROM : SAC, HOUSTON (176-15) (P)

SUBJECT: WEATHFUG

ReDLlet to Bureau, 1/31/73.

The following investigation was conducted by
SA [REDACTED]:

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AT CORPUS CHRISTI, TEXAS

On 2/12/73, [REDACTED] Assistant Security Officer,
Naval Air Station, advised as follows:

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He ascertained that [REDACTED] USN, NSN [REDACTED]
[REDACTED] is presently a patient at the USN Hospital at this
station in the psychiatric ward. Authorities at this station
are awaiting arrival of his U.S. Navy records, at which time a
determination will be made concerning disciplinary action to be
taken with regard to his alleged desertion.

b6
b7C

On 2/20/73, [REDACTED] USN, NSN [REDACTED]
was interviewed at the USN Hospital at the Naval Air Station,
and he advised as follows:

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He was born [REDACTED] Arkansas, and he
enlisted in the USN about April, 1968. In December, 1969, he
was assigned at the Naval Air Station, Whidbey Island, Oak
Harbor, Washington. He was "having mental problems" and was
unable to adapt to the Navy, having some superiors who were
constantly harassing him, so he absented himself on or about
12/23/69. He went to Vancouver, British Columbia, on 12/25/69,
and stayed at a hostel at which a number of other persons on
unauthorized absence from the U.S. military service were also
staying.

b6
b7C

He married [REDACTED] whom he had not known prior
to his desertion, and she subsequently had a daughter, now
eight months old. He and [REDACTED] resided at [REDACTED]
North Vancouver, and he worked as a tire retreader. He spent some
time in the Presbyterian Hospital for mental problems. He

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- EX-109 REC-2/11/73 11-23364
- (2) - Bureau (RM)
 - 1 - Chicago (176-1677) (Info.)
 - 2 - Dallas (1 - 176-36) (1 - 42-18702) (Info.) (RM)
 - 2 - Houston

PWH/jam
(7)

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan



5010-108

Greenberg/Gray-5439

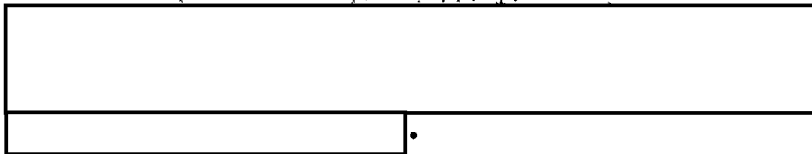
ENCLOSURE

HO 176-15

remained in Vancouver until November, 1971, at which time he came to the United States via commercial flight going to Los Angeles, California, for a stopover and then to Dallas, Texas. He visited with his parents who reside at Irving, Texas, and then surrendered himself to military authorities.

[] stated he encountered a number of other persons in Canada who were on unauthorized absence from the military service, names not recalled, except [] who absented himself with [] from the Naval Air Station, Whidbey Island. He advised that [] was married and has a child. He claimed that about seven or eight months ago [] moved from Vancouver to some other place in Canada. b6 b7C

Photographs of a number of fugitives were exhibited to [] including photographs of the following: b6 b7C



b6
b7C

He advised he did not recognize any of these photographs as that of persons he had seen at any time. He said that, so far as he knew, he had no contact in Canada with any persons wanted by U.S. authorities other than persons who were deserters from the military service or who were wanted for Selective Service violations.

LEADS:

CHICAGO AND DALLAS (INFORMATION)

Copies of this communication are being sent to the Chicago and Dallas offices for information in view of possible interest.

TO : *PD* V. Daly
FROM : J. L. Tierney
SUBJECT: *Patrick* U. S. vs. *Gray* GRAY ET AL
CHANGES TO FRANCIS J. MARTIN
LETTER DATED MAY 25, 1978

DATE: 6-14-78

On June 13, 1978, I discussed with Frank Martin several unclear or difficult aspects of the work required by him in his letter to you dated May 25, 1978.

With regard to the first portion of his letter, "I. THE WEATHERMAN FILES," Martin indicated he did not expect the entire New York and FBIHQ files to be processed but rather:

1. The [redacted] files, both New York and FBIHQ, should be reviewed for any documentation of a Bag Job which occurred in August 1974. Martin recalls the Bag Job is recorded in the next to the last serial in the New York files. Any document in FBIHQ referring to the August 1974 Bag Job should also be processed.

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2. The [redacted] individual files and the explosion at the ITT building files, both New York and FBIHQ, should be reviewed for documents relating to four Bag Jobs in Hurley, New York, which occurred between December 1973 and November 1974 and for a microphone installed during the same time period for which there is probably no documentation. If the files are reviewed for the time period of June 1973 through December 1974, this time frame should be sufficient to review. The Department has copies of travel vouchers, the originals of which are in Bureau files and which should be reviewed.

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3. The entire files for Capbom and Penbom should be processed both at FBIHQ and New York. This work is necessary because of defendant Miller's interests in these files. The [redacted] time frame of 6/73 - 12/74 should be done first with earlier portions of the file done second.

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The entire New York files in their original form should be brought to FBIHQ for all of the above-listed files. Martin recommends we review the summaries of these files prepared by Mr. Long to assist us in locating the exact serials sought. Martin has been advised that the Wisbom and [redacted] bombing files do not relate to Weatherman and, therefore, do not need processing.

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8 4 SEP 14 1978

Greenberg/Gray-5441

4-22-78

J. L. Tierney to P. V. Daly Memo
Re: U. S. vs. Gray et al
Changes to Francis J. Martin
Letter dated May 25, 1978

If any of the defendants want these files, however, Martin will not object.

With regard to the second portion of the letter, "II. files (other than Weatherman)...," in which subparagraph 1 directed inventory and processing, a discussion ensued.

Martin was advised that following the seizure of 22 filing cabinets on August 19, 1976, by Mr. Long's men, the files were inventoried with each divider and each folder listed but without any listing of the contents of the folders or any indication of their size. This inventory remains. Within one month of initial seizure, instructions were received to return the filing cabinets and their contents to the offices from which they were seized. Two or three weeks later, further instructions were received to retrieve some of the folders which had been returned. Of 232 folders sought, only 185 could be located. For example, in cabinet number 1, which was seized from Mr. Shackleford, 11 folders were sought and none were returned. The labels of these folders were read to Mr. Martin from the inventory. It was pointed out to him that Mr. Shackleford's "Branch Chief Conference Notes" are not on the inventory, although they were obviously seized at some point. The original inventory is, itself, therefore, incomplete, or the defendants are laboring under a misunderstanding that all seizures occurred on August 19, 1976.

Martin had been unaware of the sequence of events and details of the seizure/return/retrieval. He asked several questions to insure he now understood. He was asked who had selected the folders for attempted retrieval, and by what standard of selection they had operated. I noted to him that we would be unable to vouch for the completeness of these records or that all relevant folders had been designated during September or October 1976. He acknowledged the Department would vouch for the selection process.

Martin has Shackleford's notes on the Branch Chief Conference as well as approximately ten sessions of both FBIHQ and Philadelphia files in the [redacted] cases and the Newark files on [redacted]. He will make the originals of these and other files available to us next week for processing.

b6
b7C

Greenberg/Gray-5442

J. L. Tierney to P. V. Daly Memo
Re: U. S. vs. Gray et al
Changes to Francis J. Martin
Letter dated May 25, 1978

With regard to the materials seized, Martin required three things to be done as promptly as possible:

1. Inventory all presently available materials according to the original inventory prepared by Mr. Long. Continue with the procedure of counting the number of documents in each folder.
2. The attempt to locate documents should be reasonable, that is, logical locations should be searched. There is no necessity at this point to search the entire building to locate missing folders. Personnel holding documents should be advised to destroy no further materials.
3. With handwritten notations on the original inventory, list what documents are still available so that Martin can review presently available materials and designate which folders must be processed for the defense. Martin will also consult with the defense to determine whether they seek to have additional folders processed beyond those designated. Martin will agree to a reasonable expansion but will fight an overly broad expansion if requested by the defense.

Martin was unable to continue the discussion due to his deadline tomorrow for completing the discovery motion papers. Although most major issues were clarified or settled, we agreed to continue the discussion later.

JLT:dmd

cc:

*I will notify NYO (Dalseg) to get
copies of originals listed transported here*
PT

b6
b7C

4/11
ASSTANT S. Shelnik
Special Counsel to the
Assistant Attorney General
Criminal Division
John J. McManis
Deputy Associate Director
Federal Bureau of Investigation
U. S. vs. GRAY, et al.
DISCOVERY - PROTECTION OF FOREIGN SOURCES

6-15-78

4-1
WCM
FEDERAL GOVERNMENT

Mr. Patrick
Reference is made to a letter dated May 23, 1978,
from Mr. Francis J. Martin of your office, to Mr. Paul F.
Only captioned "Discovery in United States vs. Gray, et al."

Part III, numbered paragraph two of Mr. Martin's
letter advises us of the need to anticipate both adverse
court decision and negotiated settlements of contested areas
of discovery sought by the defense, particularly "Foreign
Influence" such as that sought by defendant Gray's request
number 29. The necessity for immediate response in the
event of an adverse court ruling is emphasized. Our
preparations are to include referral or submission of
materials to "third agencies" the originated materials
found in FBI records.

We are concerned by subparagraph (d) of Mr. Gray's
request number 29, Mr. Holt's National Security Defense
paragraph 5, and subparagraph (d) of Mr. Miller's request
number 32. All three seek materials from foreign law
enforcement or Government agencies concerning weathermen,
and their foreign connections, travel, communications, or
existence.

REC-110 62-118045-346
Cooperative foreign agencies are among the most
sensitive sources available to the FBI and to the intelligence
community of the United States. At times they are the sole
sources of information needed by the FBI. A basic premise
of their cooperation with us, and ours with them, is the
assurance of confidentiality which is absolute and without
reservation.

14 AUG 31 1978

Any vacillation on either's commitment to honor
the assurance, real or perceived, causes a deterioration of
the relationship. The prospect of disclosure involves con-
siderations peculiar to the country involved, and its impact
on the local political scene.

- 1 - Mr. Bassett
1 - Mr. Cregar Attn. [redacted]
1 - Mr. Moore Attn. [redacted]
1 - [redacted]

6/1/78
(SEE NOTE PAGE 3)

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FBI/DOJ

Greenberg/Gray-5444

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Barnet D. Sholnik
Special Counsel to the
Assistant Attorney General
Criminal Division

Some relationships are with an individual and not necessarily with the foreign agency the individual represents. Other relationships are with both the foreign agency and the individual representative; we have no means to determine after the fact if the representative exceeded his authority in furnishing information in reliance upon our assurances.

We cannot evaluate with any precision the potential damage which disclosure or the threat of disclosure would cause. Indeed, to inquire into the possibility would open the issue of disclosure and cause the reevaluation we seek to avoid. Even worse, it would make clear that information furnished in confidence now rests in the hands of a criminal prosecutor who contemplates its use by the defense in a public trial.

During discovery proceedings in this case's ancestor (U. S. vs. Kearney) we processed a large volume of Weatherman material in which we redacted information which would have tended to identify foreign sources. These redactions were all based on protection of sources and the adverse impact on open investigations, present and future. We are continuing to redact on this basis.

Obviously, the FBI is compelled as a matter of survival to urge strict adherence to the position that material furnished by foreign sources, both individual and institutional, is exempt from discovery and to be redacted.

Similarly, we would object most strenuously to any suggestion that foreign sources be "consulted" as "third agencies" with a view toward securing their concurrence with the release of their information or documents. For the reasons outlined above, such consultation would raise issues which would be inconsistent with, and possibly fatal to our relationships.

If the Department finds itself faced with a court order requiring disclosure of sources, the Director of Central Intelligence (DCI) will have to be notified and consulted. The DCI has a statutory obligation for the protection of intelligence sources and methods under Section 103 (d) (3) of the National Security Act of 1947 (50 U. S. Code, Section 403 (d) (3)).

Barnet D. Skolnik
Special Counsel to the
Assistant Attorney General
Criminal Division

We have processed ample examples of foreign source material in files already reviewed and will not, therefore, undertake any separate effort to locate, review, and redact all examples of relevant foreign source information. The majority of the relevant foreign source material is located in substantive files already reviewed. Although other examples undoubtedly exist, we cannot justify the empty exercise of locating and redacting to disclose it.

If you are unable to concur with any of the above points, please advise Special Agents Paul V. Daly or Joseph E. Blaney.

1 - Mary C. Austin
Deputy Assistant Attorney General
Office of Legal Counsel

1 - Robert Roush
Deputy Assistant Attorney General
Criminal Division

NOTE: A substantial amount of material from foreign sources has been encountered. Almost all material from foreign sources would be relevant to the issue of foreign involvement in the Weatherman organization. Mr. Martin's letter directs processing of this material by 7-1-78, in anticipation of negotiated settlement or adverse court ruling on the issue of foreign involvement which has, thus far, been denied to the defense under discovery as irrelevant. Instant letter outlines for the Department the critical nature of the issue, and reminds them of the interest of DCI.

RA
PVA/RS

APPROVED:

Director
Assoc. Dir.
Dep. AD Adm.
Dep. AD Inv.

Adm. Serv.
Crim. Inv.

Ident.
Intell.
Laboratory

Legal Coun.
Plan. & Insp.
Rec. Mgnt.
Tech. Servs.
Training
Public Affs. Off.

Greenberg/Gray-5446

UNITED STATES GOVERNMENT

Memorandum

TO : Paul V. Daly
FBI Headquarters

DATE: May 15, 1978

FJM:ams

FROM : Francis J. Martin, Trial Attorney
Criminal Division

SUBJECT: Discovery ... United States v. Gray, et al

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 04-09-2009 BY 65179 dmh/baw/sbs

I. The Weatherman Files

You have received a copy of the informal exchange of correspondence with defense counsel pursuant to which we have agreed to make certain discovery undertakings.* The principle such undertaking, in terms of volumes of material, is our agreement to make the Weatherman files (Headquarters and New York) available to defense counsel. Enclosed is the letter to defense counsel informing them that approximately 450 volumes of Weatherman files that you have processed are ready for their review. It is probable that some additional Weatherman files will need to be processed for defense counsel at this time the files on [redacted] and [redacted] should be processed. You [redacted] process the files (New York and Headquarters) on [redacted] [redacted] Carson, Penbom and explosion at ITT Building (Bufile 174-4567). [redacted] will attempt to determine in the near future whether defense counsel will want to see any further Weatherman files.

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II. Files (Other than Weatherman) which We have Agreed to Turn Over

In addition to the Weatherman files, the Government has also agreed to make certain other materials available to defense counsel. It is very important that these materials be processed and made available to defense counsel as soon as possible. In approximate order of importance, these materials are as follows:

- Materials seized in New York and Washington on August 19, 1976 (Gray request #8). We have agreed to make available any of these documents that relate to Weatherman. Accordingly, these

*A supplemental discovery request by Gray's counsel and the Government's response are enclosed.



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Greenberg/Gray-5447

materials should be processed as soon as possible (if that has not already been done in connection with the Kearney case). Also, as you know, after its initial seizure certain materials were returned to IS-2, where they were later destroyed. An effort should be made, based on inventories or any other available data source, to determine as well as possible what materials were destroyed. Also, please provide any regulations that relate to the routine destruction of such materials.

2. Materials relating to policy statements on surreptitious entries (Gray request #50). You have already provided, and we have turned over to defense counsel, the "Hoover memos" and other materials in this category. Any additional materials should be processed as soon as possible.
3. The Huston Plan and any internal documents relating to the Huston Plan (up to June 1973) should be processed (Gray request #53).
4. We have agreed to provide the "Haynes memo" (Gray request #54). This memo, and any similar documents dealing with FBI - White House communication on Weatherman, should be processed.
5. We have agreed to provide any studies relating to the jurisdiction in the intelligence field of the Domestic Intelligence Division during the period 1969 (last study prior to that date) thru June 30, 1974. This material should be gathered and processed.
6. We have agreed to provide FBI materials relating to the Keith decision. This material should be processed and would include any specific directives issued as a result of Keith and any general directives or policy analyses prepared during the period of the alleged conspiracy, i.e., up to June 1973.
7. We have agreed to provide any materials relating to directives issued by Mr. Gray to the effect that breach of law or of FBI regulation by agents would not be tolerated (Gray request #30). Mr. Gray has also requested (Gray request #90) any documents indicating that SAC's disregarded, or sought to determine the applicability to surreptitious entries of, a September 21, 1972 memorandum issued by Gray (copy attached). You should endeavor to locate any documents which would be responsive to this request.

Mr. Gray may consider statements that he made while addressing agents during field office visits as within the scope of this request. You should determine the nature and extent of any records reflecting such statements, some of which may have been tape recorded.

8. You should obtain the tape and transcript (if any) of Mr. Gray's meeting with SAC Grappe in August 1972 (Gray's request #34).
9. We have agreed to provide Mr. Gray with certain materials relating to his dealings with the Cabinet Committee to Combat Terrorism (Gray request #21), the National Security Agency (Gray request #23) and the President's Foreign Intelligence Advisory Board (Gray request #24). These materials should be gathered and processed.

III. Files which the Court May Order Us to Turn Over

In addition to the materials that the Government has voluntarily agreed to supply to the defense, it is likely that at least some additional discovery will be ordered by the Court as a result of discovery motions filed on May 22, 1978. Those motions, for the most part, seek materials that defense counsel have previously requested but that the Government has declined to produce. Should the Court order any such material produced, it is absolutely imperative that the Government not be required to ask for a substantial delay in order to prepare to make such material available to the defense. While it may not be possible to be prepared totally for every possible contingency, it is essential that the Government be in a position to represent to the Court that it has been making better than a good faith effort to have all disputed discovery material processed as expeditiously as possible, so that it will be available for defense counsel's review if the Court so orders. Accordingly, you should begin processing the following materials, with a firm target completion date of July 1, 1978:

1. Mr. Gray has requested all documents reflecting FBI efforts regarding Arab terrorists during his tenure (Gray request #32). The Government has denied this request as overbroad, but may agree to a narrower request. In any event, at a minimum, the files on and on Al Fatah, as well as any other control files, should be processed for the period of Gray's directorship.
2. Foreign Influence: counsel for all defendants have requested -- both generally (e.g. Gray request #11) and as to specific items (e.g. Gray request #59) -- materials tending to establish the proposition that

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the Weatherman constituted a "foreign" terrorist group. The Government has opposed this discovery as irrelevant. Should the Court rule for the defense on this issue, however, it will be vitally important for the Government to be able to produce this material for defense review as soon after such ruling as possible. Accordingly, you should process the specific materials requested (Gray request #59) as well as any other files bearing on the foreign influence issue. That processing must include appropriate submissions to third agencies asking for the release of any requested documents or information that were generated by that agency.

3. The defense has requested two 1975 position papers from the Intelligence Division (Gray request #'s 47 and 48) which the Government has declined to produce on the grounds that they are irrelevant to the events of 1972-73. These position papers should be processed. Also, Mr. Gray has requested materials relating to the "abandonment or resumption" of intelligence programs (Gray request #71). This material should also be processed.
4. Mr. Gray has requested materials relating to all post-1966 (Hoover cut-off) bag jobs. You should process all materials relating to all such bag jobs.
5. Mr. Gray has requested any documents showing that Congressional Committees investigating Capbom were informed that surreptitious entries had occurred or would occur in the FBI investigation of the Weatherman. The Government has responded that Government counsel are unaware of any such documents. You should gather any materials relating in any way to testimony before, or documents submitted to, any Congressional Committee with respect to Capbom.

We should arrange to meet soon in order to discuss any logistical problems which you may foresee in preparing discovery materials in strict accordance with instructions set forth above.

cc: Keuch
Lawton

Greenberg/Gray-5450

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DATE 04-01-2009 BY 65179 dmh/baw/sbs

Top Secret Control Number FBIHQ 78-1152

Originator of Material NSA GC/197/78
(FBI field division, FBIHQ or outside agency)

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Date of Mail 6/13/78

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Robert Rosen
Deputy Assistant Attorney General
Criminal Division
John J. Bassett
Deputy Associate Director
Federal Bureau of Investigation
U. S. DEPT. OF JUSTICE
DISCOVERY PROCEEDINGS

6-12-78

FEDERAL GOVERNMENT

Reference is made to a letter from the Federal Bureau of Investigation to the National Security Agency (NSA) dated May 22, 1978, a copy of which is attached. A copy of the NSA response dated June 13, 1978, is also attached. (U)

(U) It is to be noted the NSA response is classified ~~TOP SECRET - UMBRA~~. For this reason, instant letter is classified ~~CONFIDENTIAL~~. (U)

(U) You were previously advised of the decision by NSA to classify as ~~TOP SECRET - UMBRA~~ NSA materials in the internal NSA memorandum from G. A. Branigan to G. C. Miller dated May 31, 1972, and captioned Major Intelligence Program. (U)

Our letter to NSA dated May 23, 1978, posed the question, which was not raised in our earlier exchange of correspondence with NSA, of access by properly cleared defense attorneys to NSA material in the May 31, 1972, memorandum. (U)

In addition to furnishing guidance in general terms concerning classification levels of NSA materials, the NSA response of June 13, 1978, objects to furnishing these materials to defense counsel for the reasons set forth in their letter. (U)

AUG 31 1978

We will continue to keep you advised of significant developments in this regard. In view of your responsibilities in the discovery proceedings, and your interest as a member of the Departmental Review Committee, (U)

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1 - Mr. Bassett

1 - Mr. Cregar - Attn. _____

1 - _____ (Enclosures - 2)

(Enclosures - 2)

(SEE NOTE PAGE 2)

~~CONFIDENTIAL~~~~TOP SECRET - UMBRA~~

Material Attached

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FBI/DOJ

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Robert Neuch
Deputy Assistant Attorney General
Criminal Division

A copy of this letter is being furnished to the General Counsel at NSA to complete our records insofar as the additional copy of their June 13, 1970, letter to us is concerned. In order to avoid proliferation of highly classified and compartmentalized documents, a copy of the NSA letter is not included for Mr. Lawton or Mr. Stelnik. We trust you will make your copy available to them. (U)

Enclosures - 2

- 1 - Director
National Security Agency
Attention: General Counsel
- 1 - Darnot M. Stelnik (Enclosure)
Criminal Division
- 1 - Mary C. Lawton (Enclosure)
Deputy Assistant Attorney General
Office of Legal Counsel

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NOTE: Copies of NSA response furnished INTD and DCO since classification policy of current interest set forth therein. On 6-15-78, [] General Counsel's Office, NSA advised NSA had no objection to furnishing copy of their response to the Department of Justice. [] is aware Department may seek to have Interagency Review Board at White House declassify NSA information for use at trial and asked to be advised promptly of any positive indication that Department is actually taking such action. (U)

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